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ANSWER

TO

Jura Populi Anglicani:

OR, THE

Subjects RIGHT

OF

Petitioning.

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THE PREFACE.

THE Preface *that lets us into the Design of this piece of Malignancy, being too prolix for the Body of the Treatise, and of too great a Bulk for what is subsequent to it, I shall hold it unnecessary to give it the Reader* verbatim, *or answer it in the same method, that is,* Paragraph by Paragraph; *but, by way of Abridgement, take notice of what is most remarkable in it.*

He begins with the dissatisfaction *which the Nation in general has entertrin'd against the* management of the House of Commons, *but more particularly their* Treatment of the Five Kentish Gentlemen: *when 'tis manifest from the reception which some of the Leading Members in that Affair have had in their several Counties and Burroughs, and the Universal Acclamations they have been welcom'd home with, that the People whom they represented had a grateful sense of the Services they had done 'em, and had been neither led away from their Duties by the sight of* Thom. Cockerill's *fine piece of* Sedition, *the* Kentish *Petitioners Picture, nor by 'Squire* Tate's *most elaborately dull Poem in praise of his thick-skull'd* Worthies.

But becauſe the People are generally known to ſtand by the Acts of their Repreſentatives, (*which is a tacit Confeſſion, that they ſtand by what has lately been tranſacted, and contradicts the diſpleaſure of the Nation in general, which he poſitively affirm'd to be* burning hot *juſt before) he excuſes himſelf, and makes an Intereſt with them not to miſinterpret his meaning; for he does not reflect on the* People in general, *but thoſe particular* Counties *and* Boroughs *that choſe thoſe Gentlemen who forwarded the Commitment of his mutinous Favourites; that is, the* Majority *of that Honourable Houſe. A ſign indeed of a general Diſſatisfaction, when he owns the* Electors *ſtand up in Vindication of the* Elected, *which were known to be two thirds of the Members of Parliament, and certainly muſt leſſen the number of his Complainants!*

He brings it for an undoubted Maxim, (as ſurely it is) That if things are done contrary to Juſtice and Reaſon, the Majority of the Houſe does not give a Sanction to them; *which Negative includes this Affirmative, That where Juſtice and Reaſon are the only Motives for a Vote or Reſolution of the Houſe, there a Majority certainly ſtamps an Authority upon it. But he either takes it for granted, and would have us do the ſame, that thoſe Worthy Members acted* contrary to Juſtice and Reaſon, *or knowing himſelf to be incapable of proving the Charge upon em, purpoſely omits running into the Detail of that Injuſtice, and keeps his Reaſons for another opportunity.*

In another place he ſays, Their Impriſonment was not an Act of the whole Houſe, *becauſe the*

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honeſteſt part of it, meaning thoſe that were of his Party, diſſented from it. Now in every man's opinion, what is agreed to by a Majority of Voices in any Community or Society of Men whatſoever, is look'd upon as an Act of the whole, otherwiſe ſome peeviſh diſcontented Members, that have no great Inclination to the preſent Government, or the Church by Law eſtabliſh'd, might leſſen the Credit of Bills of Supply, by ſaying it was no Act of the Houſe, *becauſe* He *voted againſt it; or that ſuch an Act of Parliament for the Preſervation of the Proteſtant Religion was of no Force, becauſe it had not* His *Concurrence.*

Next, he purſues the malignity of his Diſcourſe, by affirming, that the Houſe of Commons are not the whole People of *England*'s Repreſentatives, but only of thoſe who actually choſe 'em; *that* the Power Legiſlative is only Repreſentative in a Political State. *To make the Abſurdity of this Argument appear, and that they are eſteem'd otherwiſe, we need go no farther than the form of Words which is generally made uſe of in all Impeachments, part of which run thus:* In the Name of the Commons, and all the Commons of *England*, &c. *Now 'tis viſible from hence, that they themſelves think they repreſent* All *the Commons of* England, *otherwiſe they would not make uſe of their Names to impeach Offenders in, or thoſe who are look'd upon to be the moſt judicious part of the Nation are miſtaken in their Sentiments, which it is not Manners even ſo much as to ſuppoſe. If the Legiſlative Power is their Repreſentative, certainly the Legiſlators themſelves may claim the ſame Title, ſince they are inveſted with that Power, and*

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have the exercise of that Authority which he gives his decision in favour of.

Another thing that seems (as he pretends) to discourage him from the Prosecution of the Discourse he has so manfully undertaken, is the Judgment *people will make of his* Intentions, *and the* Censure *that probably will fall on him for designing to serve a* Party; *and to let us into the knowledge of what he means by the word* Party, *he gives us the Character of a* Tory *as given by himself, and the Principles of a* Whig *according to the definition of Men of that Seditious Persuasion. Amongst the* Tories *he intermixes a List of some Worthy Members, as the Speaker's Brother,* &c. *and seems to make a wonder why they, that were Men of the greatest* inveteracy to the true Tory Principles, *should be blended with Sir* Edward Seymour, *Sir* Christopher Musgrave, *and others. I know not what he means by* the true Tory Principles: *but if he stands to the Account he makes the Gentlemen of that Name give of themselves, it's what they need not be asham'd of, especially when Men of direct contrary Principles stand up in opposition to 'em.*

However, at last, tho' he seem'd unwilling to be reckon'd a Scribe to a Party, he seems proud to own that he copies from St. Paul *to the life, and, like a true* Pharisee *which that holy Man was a Son of, makes use of the Apostle's words:* After the way which they call Heresie, so worships he the God of his Fathers; *that is, makes an Idol of Sedition, and* bows the knee to the Baal *of those that are restless and discontented. He needed not have made this Confession; for a man would have guess'd as much from the Title of his Book, and drawn an*

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Inference from his uneasiness under Parliamentary Proceedings that he was a Lover of Anarchy *and* Confusion.

Nothing more occurs in his Prefatory Declamation, besides his concern at the Bill against the Translation of Bishops; which he reflects upon Sir John Packington *for, being to be sure a fast Friend to the Bishop of* Worcester, *whose many Translations from one See to another it seems to squint at, and the good Bp. of* S--ry's *acquaintance, who has all manner of reason to think the Diocese of* Winchester *better than his own, and who deserves the highest Preferment in the Church as much as he does what he is* now possess'd of. *Why he should be so zealous for Episcopacy, 'tis not in my sphere to imagin, unless he stands up for that Holy Order by way of opposition; or why he falls upon the Lower House of Convocation, unless he would shew himself a profess'd Enemy to all Clergy-men who will not be rid upon. He was for the Liberty of the Lay-men just before; but would have the inferiour Clergy, which are the most Exemplary Men for their Learning and pious Conversation of all that wear that holy Garment, have no manner of Privileges; which shews, that he's for having a Power assum'd over all People but Men in his own station, and even is resolv'd to maintain hard and fast, that the Lords should exercise a Despotick Authority over those that represent the Nation, even to such a despicable Partizan as he is: when what* Memmius *says in his Oration to the People of* Rome *concerning the Exorbitancy of Power usurp'd by the Nobility, may be adapted to our purpose, and may serve as a sort of remembrance to that Venerable*

Assembly

Assembly which has lately so honourably asserted its Rights and Privileges. Superioribus Annis taciti indignabamini Ærarium expilari, Populos Liberos paucis Nobilibus Vectigal pendere, penes eosdem & summam Gloriam, & maximas Divitias esse: tamen hæc talia Facinora impune suscepisse parum habuere: Itaque postremo Leges, Majestas vestra, Divina & Humana omnia hostibus tradita sunt, *&c.* At qui sunt hi qui Rempublicam occupavere? Homines sceleratissimi, cruentis manibus, immani avaritia, nocentissimi idemque superbissimi, quibus *Fides, Decus, Pietas, postremo honesta atq; inhonesta omnia quæstui sunt. What sort of Grievances this Orator hinted at, may be seen in the History of* those, *and whom these Complaints are apply'd to, may be known from the Constitution of the* present *Times: so that there needs no other Explanation but that the* Commons *of* England *would have been in the same Condition, were it not for the prudent Resolves of our* present Senate.

Jura

Jura Populi Anglicani ANSWER'D, Paragraph by Paragraph.

THE Death of the King of *Spain*, and the alteration made in the Affairs of *Europe* by the Settlement of his Dominions, has cauſed a general Conſternation in all thoſe Countries which before had any apprehenſions of Danger from the growing Power of *France*. Among them all, none has more reaſon to be alarm'd than *England*, ſince, when we conſider our Scituation, the Affairs of Commerce and Religion, and the Intereſt not only of the Abdicated Family, but of their great Protector likewiſe, among us: we muſt allow that no other Nation (unleſs perhaps we will except *Holland*) is more immediately affected, and likelier to feel the firſt dire effects of this unhappy Conjunction.

This the People of *England* are generally ſenſible of; and 'tis to this ſenſe of their Danger, and the ſuſpicion they have entertain'd of a much greater inclination to continue than deſtroy this Union of Power, that we are to aſcribe their Diſcontents, and the Reſentments they have expreſſed againſt their Repreſentatives, to a degree never before known in any Age of our Government.

'Twas in the midſt of theſe Clamours that ecchoʼd through the Kingdom, and the univerſal diſſatisfaction of the People at the Proceedings of the Houſe of Commons, that the five Kentiſh Gentlemen preſented this following Petition, agreed to by the Gentlemen, Juſtices of Peace, Grand Jury, and other Freeholders, at the General Quarter-Seſſions holden at *Maidſtone*, the 29th of *April*, in the 13th year of his Majeſty's Reign.

" WE the Gentlemen, Juſtices of the Peace, " Grand-Jury, and other Freeholders, at the " General Quarter-Seſſions at *Maidſtone* in *Kent*, " deeply concern'd at the dangerous Eſtate of this " Kingdom, and of all *Europe*, and conſidering " that the Fate of us and our Poſterity depends up- " on the Wiſdom of our Repreſentatives in Parlia- " ment, think our ſelves bound in duty humbly to " lay before this honourable Houſe the conſequence " in this conjuncture, of your ſpeedy Reſolutions, " and moſt ſincere Endeavours to anſwer the Great " Truſt repoſed in you by your Country.

" And in regard, that from the experience of all " Ages, it is manifeſt no Nation can be happy with- " out Union, we hope that no pretence whatſo- " ever ſhall be able to create a Miſunderſtanding " between our ſelves, or the leaſt diſtruſt of his " Majeſty, whoſe Great Actions for this Nation " are writ in the Hearts of his Subjects, and can " never, without the blackeſt Ingratitude, be for- " got.

" We moſt humbly implore this Honourable " Houſe to have regard to the Voice of the People, " that our Religion and Safety may be effectually " provided for; that your Loyal Addreſſes may " be turn'd into Bills of Supply, and that his moſt " Sacred Majeſty (whoſe propitious and unble- " miſh'd Reign over us we pray God long to con-

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" tinue) may be enabled powerfully to assist his Al-
" lies before it be too late.

And your Petitioners shall ever pray, &c.

Signed by all the Deputy-Lieutenants there present, above twenty Justices of the Peace, all the Grand-Jury, and other Freeholders *then there.*

Answer. *There is no person in his senses but will grant, that the* Spanish *Succession, according to the Settlement made in his late* Catholick *Majesty's Will, has alter'd the Ballance of* Europe, *and aggrandiz'd the Family of* Bourbon *to an extraordinary degree of Power: but no Inference is to be drawn from thence that* We *are oblig'd instantly to have recourse to Arms, who are no Parties concerned in the said Will, who have no Right or Title to the least spot of Ground belonging to the Kingdoms bequeath'd in it, and who have enter'd into such a perpetual Peace with* France *and* Spain, *that cannot be violated without a manifest breach of Faith on the side of the Aggressor. Our Scituation indeed, the difference of Religion,* which they call Heresie, *and the Interest the late King and his Family has in the nearest of those Kingdoms, may entitle us to some Jealousies and Apprehensions of his most Christian Majesty's Designs, and make us provide against any Emergencies whatsoever, as far as the impoverish'd state of the Nation will allow, and the weak condition of our Pockets, which have groan'd under the pressures of a long and expensive War, are capable to permit: but that a People should be dissatisfied with their Representatives that study'd the Conservation of the Peace, should enter into Clubs and Confederacies, and run canvassing after Subscriptions to disturb the publick Tranquility, which has so lately been secur'd to 'em by the Treaty of* Reswick, *is a plain Indication that the persons who busie themselves in such Impertinencies*

take Meaſures that are unjuſtifiable for their Imprudence, and deſerve more than a Gatehouſe-*Puniſhment for the Preſumption that bears it Company. As for the* Petition, *the Judgment which has been paſſed already upon it, and the Voice of that Venerable Aſſembly which declar'd it* Scandalous, Inſolent, and Seditious, *has, I queſtion not, ſuch an Authority with thoſe that have not bid adieu to their Underſtandings, as to render it of a very diſagreeable and tumultuous Complexion; and if Inferiours, who have inveſted Superiours with the defence of their Rights and Privileges, and have reſign'd every thing as it were to their diſpoſal (as to thoſe who are the beſt Judges of what is moſt adviſable for 'em) take upon 'em to give Advice to their Councellors, as they preſcribe* Bills of Supplies *inſtead of* Loyal Addreſſes, *they ought to be reminded of their Duty by ſuch Puniſhments as may deter others from the like Arrogances.* The Subject, *ſays Sir* Humphrey Mackworth *in his judicious Treatiſe*, has an undoubted Right to petition the Lord Chancellor, but not to give his Lordſhip any affront: and if he ſhould preſume in ſuch a Petition to deſire the Lord Chancellor *to turn his plauſible Speeches into juſt and righteous Decrees*, I preſume his Lordſhip might commit him to the *Fleet* for ſuch an Indignity to the Court.

Jura Pop. Ang.

This Petition was offer'd to the Houſe on the 8th day of *May*; the Gentlemen who deliver'd it, and own'd it at the Bar of the Houſe, were Mr. *William Colepepper*, Mr. *Thomas Colepepper*, Mr. *David Polhill*, Mr. *Juſtinian Champneys*, and Mr. *William Hamilton*; for ſo I find all their Names written in the Votes, without the addition of *Eſq*; tho' four of them were Juſtices of the Peace, and two Deputy-Lieutenants of the County. This was thought by ſome to be prudently contriv'd to leſſen the Credit of the Petition among People without doors, and to make others leſs eager to follow

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the Example of thoſe Gentlemen. Concerning the Petition the Houſe came to this Reſolution, That 'twas *Scandalous, Inſolent and Seditious, tending to deſtroy the Conſtitution of Parliament, and to ſubvert the eſtabliſhed Government of this Realm.* The five Gentlemen they order'd to be taken into the Cuſtody of a Serjeant at Arms. The Treatment they had from him was very ſingular, and ſhew'd that they were under the high diſpleaſure of the Houſe; for when he accidentally ſaw two of them talk together, he drew his Sword upon his Deputy for permitting it; and when upon one of thoſe Gentlemen's demanding a Copy of their Commitment (which they reckon'd they had a Title to, by virtue of the *Habeas Corpus* Act) and his refuſing it, the Gentleman ſaid, he hop'd the Law would do him Juſtice: his Reply was, that *he car'd not a fart for the Law.* The Reverence of the Law is fallen very low indeed, when one who has the Honour of being a Servant to the Houſe of Commons can preſume to make ſo bold with it. In his Cuſtody they continu'd till the 13th of *May*, when he (contrary likewiſe to the *Habeas Corpus* Act) by an Order of the Houſe of Commons, and a Warrant iſſu'd out from the Speaker, deliver'd them Priſoners to his Majeſty's Priſon at the *Gatehouſe*, where they continu'd to the end of the Seſſion. Beſides this ſevere Puniſhment inflicted by themſelves, that they might ſhew their utmoſt Reſentment, and proceed to all the Severities in their Power, they at the ſame time reſolv'd upon an Addreſs to his Majeſty to put them out of the Commiſſions of the *Peace* and *Lieutenancy.*

Anſw. *The omiſſion of the Title of* Eſq; *it ſeems ſticks mightily in the Gentleman's ſtomach, becauſe four of 'em were Juſtices of the Peace, and two Deputy-Lieutenants: when the very Orders of the Houſe, as may be ſeen in the printed Votes, very ſeldom give that ſonorous Appellation to their own Members, but run thus:*

Order'd,

Order'd, That Mr. ſuch-a-one carry the Bill to the Lords, &c. *But the Engraver that gave us their Seditious Effigies has pleas'd 'em to the life, in not only cutting* 'Squire Colepepper, &c. *but has given 'em their Coats of Arms into the bargain. The Serjeant at Arms for his part is known to be a Gentleman of ſingular Humanity; and if he is obliged to make uſe of ſome things that may look like Severities, it is for fear of diſobliging the Members of that Houſe whoſe Servant he is, and whom it is his Intereſt to keep a good underſtanding with, in his valuable Poſt; And Mr.* Powell's *reſpect for the* Laws, *as well as the* Legiſlators, *is ſo great, that he utterly denies any other Reflection on it, than that when one of the five Mutineers threaten'd him with a Proſecution, he gave him to underſtand, but in more decent Terms, that he defied him, ſince he was under the Protection of that high Power which would ſtand by him in the Execution of his Office.*

The Impriſoning of thoſe Gentlemen is the Fact which comes under my conſideration. In order to handle this Subject fully, 'twill be neceſſary that I conſider theſe things: *Firſt*, What Power the Houſe of Commons has to impriſon. *Secondly*, The Subject's Right of Petitioning. *Thirdly*, What Reaſons the Gentlemen, Juſtices of the Peace, and Grand-Jury of the County of *Kent*, had to offer that Petition when they did.

Firſt, I am to conſider what Power the Houſe of Commons has to impriſon. Tho' this enquiry may by ſome be thought needleſs in this place, ſince a bare ſetting forth the Subject's Right to petition will be ſufficient to ſhew us what we are to think of the impriſoning of the *Kentiſh* Petitioners; yet the beſt way, I think, to enable us to make the trueſt Judgment concerning this Fact, will be to examine what Proviſion the Laws have made for the Liberty of our Perſons, and how far we are ſubject to the Will of the Houſe of Commons.

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Such an enquiry would be highly neceſſary at this time, tho' the treatment of the *Kentiſh* Petitioners had given no occaſion for it. Great Numbers of other Subjects have been impriſon'd by them this Seſſion, to the horror and amazement of all thoſe who know the Rights and Liberties of the People of *England*, and therefore cannot but be concern'd to ſee them ſo miſerably infring'd. To prevent ſuch Acts of Power for the future, 'tis neceſſary that we ſhew that they are meer Acts of Power, and manifeſt Incroachments on the Liberties and Rights of the People. If there be any who ſtill retain the old fond Opinion they had of the Peoples Repreſentatives, and think that our Liberties are ſufficiently provided for when they are in the hands of ſuch Guardians, and that we can ſuffer no great Inconvenience by any Power which they are entruſted with, I would deſire them to enquire how Mr. *Buckley* (committed for ſhewing the Letters which he received from Sir *Edw-d Sey---r* and Mr. *Colſon*) and Mr. *Haſſam* (committed on Mr. *Samuel Shepherd*'s Account) were treated by the Serjeant at Arms in their Confinement; and conſider whether ſuch Severities are not ſufficient to convince them, that the Peoples Repreſentatives (as they are call'd) are not to be complemented with more Power over the Liberties of the People, than our Laws and Conſtitution do allow them? Do not the fierce and rigorous Proſecutions which we have ſeen make it evident to us, that Men can fall under no Reſentment, no Rage, or Malice, more outrageous than that of a Party? Don't we ſee how regardleſs Men can be of their Reputation, what little and unbecoming Artifices they can ſtoop to, when they are intent upon breaking an oppoſite Faction? Is it fit then that in ſuch a diſorderly and divided State, Men ſhould be entruſted with exceſſive Power, who are inclin'd to make ſo ill uſe of it? If by our Conſtitution the Houſe

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of Commons were allow'd a Power to reſtrain the Freedom of our Perſons, as they ſhould think fit, for the good of the Community, the exerciſe of that Power, however rigorous and ſevere, would (if it were free from the biaſs and influence of Parties) be as patiently born from them, as any other hands whatſoever. But if by a Lawleſs and Arbitrary Power they invade that Freedom which an excellent Conſtitution entitles us to, 'tis impoſſible that a regard for the Perſons who afflict us ſhould reconcile us to the Suffering. 'Tis my buſineſs here to diſcover whether they have done ſo, or no. The propereſt method to do this, and to ſatisfie this firſt enquiry concerning their Power to impriſon, will be, Firſt, to examine how far our Laws have ſecured the Liberty and Freedom of our Perſons. Secondly, to examine whether the Power exercis'd by the Commons be not repugnant to the Laws, and plainly deſtructive of our Conſtitution.

Anſw. *The Method that our Author promiſes to take in Vindication of thoſe* Gentlemen, *he ſhould by all means call* Squires, *on account of their high Poſts, has all imaginable appearance of what is fair in it; and his Orthodox way of dividing the Text into three Parts has been ſo long approv'd from our Pulpits, that no Exceptions can be made againſt it. But we may make an eſtimate of his deſigns to ſtate the Caſe, and in whoſe favour he intends to decide the buſineſs in hand, from the little Artifices he makes uſe of in relation to Sir* Edward Seymour's *Letter, and the Treatment of the* righteous and plain-dealing *Mr.* Shepherd's *Agent. He tells us Mr.* Buckly *and Mr.* Haſſam *were hardly us'd; the firſt committed on account of very indecent Reflections on an Honourable Member of the Houſe, which is a Breach of the Privileges of Parliament; the laſt for his concurrence with indirect practices, and forwarding the great Concern of Bribery, which was in agitation amongſt ſome perſons who have been*

been expell'd the Houſe, but he would inſtance in the particulars, were there any Truth in his Allegations, he lays down in ſuch general Terms. If they had a ſevere Treatment, 'twas the juſt Reſult of their Crimes, and thoſe Perſons who are now at Liberty, ought to thank the Houſe that they did not make uſe of further Severities, ſince the Law directs Puniſhments beyond Impriſonments in Caſes of Bribery, and orders a plenary Redreſs for falſe Accuſations. What is hinted at further in this Paragraph is ſo much of a Peice with what is gone before, that it will be unneceſſary to dwell any longer upon it, wherefore let us look into his two Subdiviſions, in relation to the Common and Statute Law.

As to the firſt enquiry, 'tis evident that both the *Common* and *Statute Law*, of this Land, as they ſuppoſe Men to have an Inheritance in the Liberty of their Perſons, ſo have they taken all imaginable care to ſecure them in the Poſſeſſion of this Inheritance.

1*ſt*, As to the *Common Law*, we know what favour ſhe ſhews to the Liberty of our Perſons. This was ſo great, that formerly ſhe ſuffered none to be impriſon'd, but for Force, and things done againſt the Peace. Force indeed ſhe (being the Guardian and Preſerver of the Land) could not but abhor; thoſe therefore that committed it, ſhe accounted her Capital Enemies, and did ſubject their Bodies to Impriſonment. In all other caſes ſhe protected them from this Reſtraint. This was our Conſtitution in the time of the *Saxon* Kings, and a long while after, till the 35*th* year of *Hen.* 3*d*, who was the eighth King from the Conqueſt: Becauſe Bailiffs would not render Accounts to their Lords, 'twas then enacted by the Statute of *Marlebridg*, cap 24, that their Bodies ſhould be attach'd. Had this Law been a little unreaſonable, 'tis no great wonder that it ſhould paſs at that time, conſidering the weakneſs of the

King, and the Power of the Lords, in whoſe favour 'twas made. We may remark concerning it, that the firſt Act to reſtrain the Subjects Liberty was procured by thoſe Lords who forced a Charter from the King to confirm their own Liberties. Three Reigns after this (23 *Edw.* 3. 17.) becauſe Men took no care to pay their Debts, 'twas provided by another *Statute* that their Bodies ſhould be attach'd. Before theſe Statutes, as I ſaid, no Man's Body was ſubject to be taken or impriſon'd otherwiſe than as aforeſaid. As the Moderation of our Anceſtors in not enacting any ſuch Laws, in all the Ages that went before, demonſtrates the great regard they had for Liberty; ſo did the Courſe and Practice of the Law afterwards fully ſhew how great a Puniſhment they reckoned to have it reſtrain'd, as by thoſe Statutes. Before the Keign of K. *James* I. 'twas allow'd, that he who died in Priſon diſcharged the Debt, how great ſoever it was, for which he was committed. The reaſon was, becauſe they thought Impriſonment a Puniſhment ſo great, that no other ſatisfaction ought to be demanded after it. 'Twas the opinion they had of the greatneſs of the Puniſhment, that made our merciful Forefathers bear with Men in uſing ſuch Acts of Force to enlarge themſelves, as are not now allow'd. The Statute *de frangentibus Priſonam*, made in the firſt year of *Edward* the Second, enacts that *no one ſhall undergo Judgment of Life or Members, for breaking of Priſon alone, unleſs the Cauſe for which the Perſon is impriſon'd require ſuch a Judgment.* And the Mirrour of Juſtices, which was writ before this King's Reign, where it reckons up the Abuſions of the Common Law, tells us, *That 'tis an Abuſe to hold an Eſcape out of Priſon, or the Breach of the Goal, to be a mortal Offence,* FOR AS MUCH *As* ONE IS WARRANTED TO DO IT By THE LAW OF NATURE. All this cannot be wonder'd

der'd at, when we conſider how great an evil Impriſonment is reckon'd, and that 'tis in Law called *Civil Death*: *Perdit Domum, Familiam, Vicinos, Patriam*; *he loſes his Houſe, his Family, his Wife, his Children, his Neighbours, his Country, and is condemned to live among wretched and wicked Men.* For this reaſon it is that as a Man, if he be threatned to be kill'd, may avoid a Feotment, Gift of Goods, *&c.* So it is, if he be threatned to be impriſoned, or kept in Dureſs; that being reckoned to be a Civil Death, any Specialty or Obligation, made by him is null in Law: And he may avoid the Action brought upon ſuch Specialty, by pleading that it was made by Dureſs.

Anſwer,

The Common Law, it muſt be confeſs'd, ſhews great favour to the Liberties of our Perſons, but certainly it has regard to what is Equitable and Juſt, and if Perſons formerly were Impriſon'd on Account of making uſe of force, or threatning to make uſe of it, or any other Breach of the Peace, he has brought an Argument againſt himſelf which Juſtifies the Confinement of the 5 Kentiſh *Gentlemen, ſince the Law allows, that coming in a Tumultuous manner with Petitions, getting Subſcriptions through a whole County to Affront the higheſt Courts of Judicature, is a direct Breach of the Peace. None of 'em being Impriſon'd for Debt, it is needleſs to ſearch into the Statute of* Edward *the* 3 *d. or for him to Quote it, but it is plain if the Gentleman that writes this practices the Law, he may have Clients enough if he can clear Poor Debtors from any Obligations from Bonds which have been ſign'd and deliver'd in Priſons.*

As the *Common Law* has ſhewn a great regard, ſo *ſecondly* has the *Statute Law* of this Land abundantly provided for the *Liberties* of our Perſons. This is evident from many Acts of Parliament. The firſt that I ſhall take notice of is the *Grand Charter* of the Liberties of *England* granted firſt in the

17th year of K. *John*, and renewed twice in the Reign of King *Henry* the Third. By that Charter it is provided that *no Freeman ſhall be taken or impriſon'd, unleſs it be by Judgment of his Peers, or by the Laws of the Land:* That is, by *Jurors* who are his *Peers*; or by due *Proceſs of Law.* That this is the meaning of thoſe Words *per Legem terræ*, or *Law of the Land*, will plainly appear from divers other Statutes wich explain thoſe Words. In the 25 *Ed.* 3. c. 4. we find them thus explained in theſe Words: *Whereas it is contained in the Great Charter of the Franchiſes of* England, *that no Freeman be impriſon'd, or put out of his Freehold, nor of his Franchiſe, nor Free Cuſtom, unleſs it be by the LAW OF THE LAND, it is accorded, aſſented, and eſtabliſh'd, that from henceforth none ſhall be taken by Petition or Suggeſtion made unto our Lord the King, or to his Council, unleſs it be by Indictment or Preſentment of his good and lawful People, of the ſame Neighbourhood where ſuch Deed was done, in due manner, or BY PROCESS MADE BY WRIT ORIGINAL AT THE COMMON LAW; and that none be out of his Franchiſes or Freehold, unleſs he be duly brought in to anſwer, and forejudg'd of the ſame by COURSE OF LAW: And if any thing be done againſt the ſame, it ſhall be redreſs'd and held for null.* The 28th of *Edw.* 3. is very direct to this purpoſe: There 'tis enacted, *That no Man of what Eſtate or Condition he be, ſhall be put out of his Lands or Tenements, nor taken nor impriſon'd,* &c. *without he be brought in to anſwer by due PROCESS OF LAW.* 36. *Ed.* 3. *Rot. Parl. Num.* 9. Amongſt the Petitions of the Commons, one of them, being tranſlated out of *French* into *Engliſh*, is thus; *Firſt, That the Great Charter, and the Charter of the Foreſt and the other Statutes made in his Time, and the Time of his Progenitors, for the Profit of him and his Commonwealth, be well and firmly kept and put in Execution, without putting Diſtur-*

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bance, or making Arreſt, contrary to them, by ſpecial Command, or in any other. The Anſwer to this Petition, which makes it an Act of Parliament, is, *Our Lord the King by the Aſſent of the Prelates, Dukes, Earls, Barons, and the Commonalty, hath ordain'd and eſtabliſh'd that the ſaid Charters and Statutes be held and put in Execution acoording to the ſaid Petition; which is, that no Arreſt ſhould be made contrary to the Statutes by ſpecial Command.*

This explains the matter fully, and is of as great force as if it were printed; for the *Parl. Roll* is the true Warrant of an Act, and many are omitted out of the Books that are extant.

36 *Ed.* 3. *Rot. Parl. Num.* 30. explains it further; for there the Petition is, *Whereas it is contained in the Grand Charter, and other Statutes, that none be taken or impriſon'd by ſpecial Command, without Indictment, or other due Proceſs to be made by Law; yet oftentimes it hath been and ſtill is, that many are hindred, taken and impriſon'd without* INDICTMENT, *or* OTHER PROCESS *to be made* BY THE LAW *upon them as well of things done out of the Forreſt of the King, as for other things: That it would therefore pleaſe our ſaid Lord to command thoſe to be deliver'd who are taken by ſpecial Command, againſt the* Form *of the Charters and Statutes aforeſaid.* The Anſwer is, *The King is pleas'd if any Man find himſelf griev'd, that he come and make his Complaint, and Right ſhall be done unto him.* 37 *Edw.* 3. *c.* 18. agreeth in Subſtance, when it ſaith, *Though it be contain'd in the Grand Charter, that no Man be impriſon'd, nor put out of his* Freehold *without Proceſs; nevertheleſs divers People make falſe Suggeſtions to the King himſelf, as well for Malice as otherwiſe, whereat the King is often griev'd, and divers in the Realm put in Damage, againſt the Form of the ſaid Charter: wherefore 'tis order'd that all they who make ſuch Suggeſtions, be ſent with the Suggeſtions before the Chancellor, Treaſurer, and the Grand Council,*

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and that they there find Surety to purſue their Suggeſtions, and incur the ſame pain that the other ſhould have had, (if he were attainted) in caſe that their Suggeſtions be found evil, and that then Proceſs of the Law be made againſt them without being taken aud impriſon'd againſt the Form of the ſaid Charter and other Statutes. Here the Law of the Land in the *Great Charter* is explain'd to be *Proceſs of the Law.*

Anſwer,

As his Quotations from the Common-Law might have been left out, as bearing no relation to the Subject in hand, ſo he might have forborn the Recital of the Statute-Law. The great Charter, and ſeveral Acts of Parliaments in diverſe King's Reigns ſince King John's *Time provided for the Liberty of the Subjects, (viz.) That they ſhould not be impriſon'd without Proceſs, or Indictment, but many ſubſequent Statutes ſince their time to forward a due Execution of Juſtice, have taken care likewiſe of the Priviledges of our Superiors, as in the Reigns of their late Majeſties* Charles *and* James *the 2 d. as alſo in thoſe of* Henry *the 7th and 8th as may be ſeen likewiſe in the Parliament Rolls.* For *if Criminals were not inpriſoned, and by cloſe Confinement forc'd to appear and anſwer to their Indictments, what would become of the Law, and how large would be the Number of Offenders. If a Scandalous and defamatory Perſon, a Man that whiſpers about Jealouſies and groundleſs Suſpicions thro' the Nation, and vilifies the Magiſtracy muſt have his Liberty till he can be brought to a Formal Tryal, without doubt we ſhould be to ſeek for the Malefactor at the day appointed for hearing his Offences? The wiſdom of the Nation has therefore taken care for the bringing ſuch Delinquents to Juſtice, tho' ſometimes as in the Caſe of the* Kentiſh Petitioners, *the mercy of our Superiors has been ſuch, as to content themſelves with depriving 'em for ſome time of their Liberty, when they might have order'd them to be proſecuted after the breaking up of the Seſſion, and this Power of Impriſoning*

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ing Perſons that are not Members has been exercis'd and claim'd as an undoubted Right in the Commons in all former Reigns, and has been made uſe of thro' the whole Courſe of his preſent Majeſty's, and never interrupted or attempted againſt till this very time, when Faction is grown barefac'd, and Malecontents dare ſhew themſelves in Print, and ſhed their Venome in Publick Places.

From what I have here delivered, it appears what care both the *Common* and *Statute Law* have taken of the *Liberty* of our *Perſons*; that the former abhor'd Impriſonment, and never allow'd it, unleſs it was when Men had been guilty of *Force*, and render'd themſelves Enemies to the Community; and that the latter has frequently enjoin'd that it ſhall not be inflicted, unleſs it be by *Indictment*, or ſuch *due Proceſs* as the Law requires. What we have here ſaid will aſſiſt us in

Anſwer,

What he has here deliver'd (*in the words of the Preacher*) *has nothing to do with the Caſe of Perſons whoſe defence he has undertaken; ſince any Intelligent Creature knows that Riotous Aſſemblies as getting of hands by way of Remonſtrance againſt Parliamentary Proceedings, imply a ſort of threatning, to make uſe of force if they did not comply without it*; and Sir Edward Seymour's *ſaying, that the Petition ſmelt of Forty One was very Appoſite to the Papers. ſince the Proceedings in thoſe days came to ſuch a high head from the very ſame beginnings.*

The ſecond thing propos'd, which was to enquire whether the Power exercis'd by the *Houſe* of *Commons* be not an Invaſion of our Legal Rights, and tends not to ſubvert even our Conſtitutions? The Laws are called (*Edw.* 6. *Fol.* 36.) *The great Inheritance, and the Inheritance of Inheritances, without which a man can have no Inheritance.* The greateſt Inheritance a Man hath is the Liberty of his Perſon, for all others are neceſſary and

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ſubſervient to it. If then the *H — ſe* of *Com——ns* have invaded that fundamental Liberty of our Perſons, which by *Magna Charta*, and ſeveral other Statutes, as well as the moſt ancient Cuſtoms and Laws of this Land, we are entitul'd to, this will inform us how far the Powers exercis'd by them have deſtroy'd our Legal Rights. *Magna Charta* ſays, that *no Freeman ſhall be taken or impriſon'd, but by the Judgment of his Peers, or the Law of the Land*: But 'tis certain that Men impriſon'd by them underwent no Judgment of their Peers, were not committed by legal Proceſs or by any Law that we know in this Land. I know 'twill be ſaid, that by the Words of *Magna Charta* we are to underſtand not *legal Proceſs*, but the *Law of the Land* generally, and that the Words extend to all the Laws in the Realm. Since then there are Laws and Cuſtoms in Parliament, and by thoſe Cuſtoms Impriſonment is allow'd, 'twill be ſaid in favour of the *Houſe* of *Commons*, that they in committing People do not neceſſarily deſtroy that Right which we have by *Magna Charta*. 'Tis true, there are Rules and Cuſtoms in Parliament, and by thoſe Cuſtoms they have a Power to impriſon: But that is a Power which extends to their own Members; ſuch a Power is neceſſary within their Society, becauſe without it 'twould be impoſſible to keep the Members of it to ſuch Rules and Orders as muſt neceſſarily be obſerved by ſo great a Body of Men, engaged in ſo weighty and important Buſineſs. Confinement here is no violation of the Right Men have to the Liberty of their Perſons by *Magna Charta*; that Right they all give up, and ſubmit to the Rules of the Houſe, when they make themſelves Members of it. It muſt be confeſſed that this Power has been extended farther to Perſons who are not Members, as in caſes of breach of Privilege, and Contempt. I ſhall not here take notice of the

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riſe of this Power, and how great a Grievance the exerciſe of it has been to the People of this Land; but muſt obſerve, that if a Liberty has been taken of confining thoſe who offer'd violence to *Members* in their own Perſons, or in their Servants or Eſtate, becauſe ſuch Moleſtations, if allow'd, might give them too great diſturbance, and ruin the Buſineſs of the Publick; yet it muſt not from hence be inferr'd that the *Houſe* of *Commons* has an abſolute or an unlimited Power to impriſon whom, and for what cauſe they pleaſe. If there are ſome Confinements order'd by that Houſe, which are not, 'tis ſure there may be ſome which are repugnant to *Magna Charta*; otherwiſe *Magna Charta*, and all the other Acts which deſigned to ſecure our Liberties from the Invaſions of our Kings, whoſe Subjects we are, and to whom we owe Allegiance, have left us expos'd to the Arbitrary Will of our *Fellow Commoners*, who (thanks be to God) have yet no ſuch Rule or Dominion over us.

Anſwer,

'Tis certain, thoſe that are the Peoples Repreſentatives aſſert the Peoples Rights as they ſtand up for their own, ſince their Priviledges are inſeparable; and that the five Priſoners beforemention'd, were legaly committed ſince they receiv'd their Mittimus *from the Fountain of Law from whence all Commitments proceed; and if ev'ry private Juſtice of the Peace can ſend Criminals, or at leaſt thoſe who are reputed to be ſo, to Goal, certainly, Gentlemen in ſuch Publick Stations as the Members of the Houſe of Commons may be inveſted with as high an Authority. The Magiſtrate he orders 'em to be kept in hold, in order to ſecure 'em to ſtand Tryal, and certainly they that make the Magiſtrate, in the Perſon of the Supream Magiſtrate, even the Kings moſt Excellent Majeſty can have the ſame Prerogative over the People; and it no more deſtroys the Rights we have from* Magna Charta, *to*

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imprison those that are not Members of their House, than it does, by confining those that are, since the same Custom that pleads for one may be alledg'd in defence of the other, and the People who are represented cannot have Pretensions to greater Priviledges than those that represent 'em. Either all Confinements order'd by the House, must be Agreeable to Magna Charta, *or none can be; since the same Argument that destroys One, disanulls All, and we must either allow the Judgment of Parliaments for a Tryal* by our Peers, *or own no such Tryal has been made use of in Parliamentary Proceedings that were previous to Commitments.*

Whether they have invaded our Rights contrary to *Magna Charta*, and in such instances as are a Subversion of our Constitution, will be evident to us, if we look over the Catalogue of their Prisoners, and examine the cause of their Commitment. The five *Kentish* Gentlemen, whose Case I am now considering, were imprison'd for a Fact no more prohibited by the Laws of this Land, than praying for the King, or that God would direct the Consultations of the Parliament, to the advancement of the Safety, Honour, and Welfare of our Sovereign and his Kingdoms. It would be too tedious to descend to particulars; of the great number which might here be taken notice of, as pertinent to my purpose, I shall mention only two, Mr. *Paschal* and Mr. *Whitacre*. The former was sent to the *Tower*, and kept there to the end of the Sessions, for not giving in his Accounts after the manner prescrib'd by the Commissioners of Accounts, pursuant to an Act of Parliament. The latter was committed, and continued likewise in his Confinement till the end of the Session, for being faulty (as the House of Commons thought) in the discharge of his Office, in an instance of taking Bail. After his Confinement, his Accounts which

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he had paſſed were examined, and they were made another Charge againſt him. Whether thoſe Gentlemen were faulty or no, it concerns not me here to enquire. Mr. *Paſchal* has printed his Caſe, and 'tis a very hard one; the Crime for which he was ſent to the *Tower* was for not doing what was not in his power to do. But tho' he and others were guilty, 'tis certain that the puniſhing of them after that manner is nevertheleſs an Injury to the Publick. If Mr. *Paſchal* was guilty of Contempt, and puniſhed thus for not obeying an Act made in the Seſſion of another Parliament, and Mr. *Whitacre* for being faulty in the diſcharge of his Office, may they not for the ſame reaſon charge all with Contempt who diſobey Acts of Parliament, or are faulty in the execution of their Offices, and puniſh them after the ſame manner? Either they claim ſuch a Power as this, or they do not: If they do not claim ſuch a Power, as the Right of the Commons of *England*, then they own that they have been injurious to thoſe Gentlemen in impriſoning them, and deſtroying that great and fundamental Right which they have to the Liberty of their Perſons. If they do claim ſuch a Power, they may ſeem to aſſume a Power which overthrows our whole Conſtitution. This will be manifeſt, when we conſider the ſeveral Inſtances wherein it ſubverts the Laws, the Rights and Liberties of the People.

Anſw. *The Liſt of the Priſoners committed by Parliament might be ten times as great, and yet the Priſoners under the ſame Guilt, and the Gentlemen that had 'em taken into Cuſtody juſtified in their Proceedings, ſince the ſame Authority that entitles 'em to confine* one, *may make it lawful for 'em to commit* more. *But I cannot be induc'd by any means to believe that the* Kentiſh *Petition was only a Prayer for the King and the Safety of the People, when it tended to make a difference between 'em, and preſcrib'd the giving* Supplies

to their Consideration, who sate as Judges to consult when they were necessary. Particulars are things he cannot make out, therefore he speaks in general, tho' at the same time he flies from the particular Case of the Kentish *men to that of Mr.* Whitacre *and Mr.* Paschal. *The first is too well known, for the great Estate he has lately acquir'd in a Post of no very great Salary; and the last is remarkable enough for Actions when Commissioner of the Prize Office, not to justifie their Commitments. Mr.* Paschal, *without doubt, could have given in a satisfactory Account in relation to the Prizes taken in the* Streights, *was not a certain Great Man who has rais'd his Fortunes by that gainful Expedition, at the bottom of the Plot; and Mr.* Whitacre *could have done the Nation very signal Service in relation to Captain* Kidd's *Affairs, had he taken better Security for the Appearance of a Prisoner, that would have let us into the knowledge of some Great Mens Practices that were Accomplices with him. But they knew their business; One was Rich, and would not detect those that had made him so; and t'other was Poor, and would not impeach him that was in a capacity of making him Rich. To what end therefore has the Parliament a Power to give Money for the Service of the Nation, if they have not likewise a Power to call those Persons to an Account, that either misapply it themselves, or permit corrupt uses of it in others?*

First, It may be thought an Incroachment on the Power Legislative: For where the Commons are pleased to inflict such a Punishment for the violation of a Statute, as is not mentioned in the Statute, and was never designed by the Legislators, there they may seem to assume an Authority at least equal to that of the Legislative. To create a new Punishment, and superadd it to a Law, may be allowed to be the Act of a Power equal to that which made it; and in the present Case some may reckon it in some sense greater, since that Addition

dition makes it a Law with a Puniſhment *ex poſt facto*, which is a Power inconſiſtent with the Freedom of a People, and therefore is never made uſe of by our Legiſlators.

Anſw. *The Commons have one part, and that the moſt material, of the Legiſlative Power in their hands; they contrive Laws, and put 'em into Form, and might be ſaid actually to* make *'em, were not the Concurrence of the Two other Eſtates of the Nation altogether neceſſary towards the Enacting them: And how they can encroach upon their own Authority, is beyond my Sphere to determine, ſince we generally look upon Encroachments to be an Invaſion of other Peoples Rights, and not our own.*

Secondly, It may be deem'd an Encroachment on the Power and Rights of the King. He by our Conſtitution has the ſupreme and ſole executive Power: He is *Caput & Salus Reipublicæ*. The Laws are his, and the Execution of them, wherein the Safety and Freedom of his People conſiſts, are committed to Him, and thoſe who derive their Authority from him. Where ever therefore any part of his People take upon them to inflict Puniſhments without being authorized by him, or, which is the very ſame thing, by his Laws, ſome may think that his Rights are thereby invaded, and his Majeſty leſſened, not only by that Invaſion, but likewiſe by his being thereby made, inſtead of a Ruler of a brave and free People, a Titular King of poor and contemptible Slaves.

Anſw. *The King is by every Subject's acknowledgement the Supreme Head of his Kingdoms: but the* Commons *Impriſonment of People who made too free with Gentlemen in their high Station, does not affect the Royal Supremacy, or take any thing from the reſpect that is due to it. It's true indeed, they do not repreſent the King as the ordinary Magiſtrate, but they* aſſiſt *him, are his Councellors, nay, ſuch a part of* his very Com-

Compoſition, *that he cannot ſubſiſt without 'em, and certainly may be allow'd the ſame Privilege as every Officer of Juſtice is permitted the uſe of.*

Thirdly, Some may account this an Invaſion of the Rights and Liberties of the Kingdom, and ſuch a one perhaps as deſtroys Freedom, and introduces downright Slavery. It may be worth *Engliſh*-mens while to conſider, whether they can form to themſelves any other Notion of a State of *Freedom* and Slavery, than that in the former, Men are governed by Laws made by their *Repreſentatives*, and are liable to no Puniſhments but what are preſcrib'd by the Laws of that State: and in the latter, that they have no certain Rule to walk by, but are ſubject to the meer Will of One or More who claim a Power and Dominion over them. If they find theſe Notions to be true, they will do well to conſider again, Whether they can avoid making this Inference, That they who aſſume a Power to puniſh a People who live under the direction of the Laws, without a Rule or Law, deſtroy the Rights and Liberties of the People, take away their Freedom, and reduce them to a perfect State of Slavery?

Anſw. *The Rights and Liberties of the Kingdom are inviolably preſerv'd by 'em, unleſs keeping the Ballance* even *between Lords and Commons be an Invaſion of 'em; and any perſon that has any Gratitude, in return for their Noble and Generous Reſolutions this laſt Seſſions, will never make uſe of any expreſſions to decry what has got 'em ſuch Immortal Praiſe in the chiefeſt Courts of* Chriſtendom. *If a Man ſhould threaten to fire my Houſe, it's my buſineſs to take him up by way of prevention, not to ſtay till he has executed his deſign, that the Law may have its immediate Courſe with him: I probably may be ruin'd whilſt I intend to proceed regularly againſt him; therefore it's neceſſary ſometimes to ſtrike out of the common Road, and ſe-*

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cure Malecontents from doing any harm, by Commitments, &c.

Againſt what I have here ſaid, 'tis, I know, generally objected, That Juſtices of the Peace, Judges, and others, are allow'd to impriſon Freemen, without being impeach'd of deſtroying that Liberty which they enjoy by *Magna Charta*, and the *Common Law* of this Land: Why then theſe Outcries againſt the *Honourable Houſe of Commons?* The Anſwer is very plain and eaſie: The former are Officers appointed by the King, who is inveſted with the whole executive Power, to preſerve the Peace of the Kingdom; and the latter are commiſſioned to do the ſame, and to preſide in his Courts, and to adminiſter Juſtice to his Subjects, which 'tis impoſſible for them to do without having a Power given them to confine evil and rebellious Subjects. The lower Houſe of Parliament is no Court, has no need of ſuch Power, being call'd by the King to aſſiſt him with their Counſel in Affairs of the greateſt moment and weight, to bear a part in the Legiſlature, and to repreſent the Grievances of the Nation, and deſire to have them redreſſed; but not to redreſs them themſelves, by taking upon them to puniſh Offenders. If Judges, or Juſtices of the Peace, or others who are entruſted with this Power, exceed their Commiſſion, and are oppreſſive and injurious to the Subject, there is a ſuperiour Juriſdiction to appeal to for ſatisfaction, and Laws to determine whether Injury has been done or no: But if a Houſe of Commons will puniſh thus without Law, there is no Authority or Power on Earth from which Relief may be had by Appeal, which in our Conſtitution is a very good reaſon againſt their having ſuch a Power; for the Lord-Chief-Juſtice *Huſſey* tells us, That Sir *John Markham* told King *Edward* IV. that he could not arreſt a Man, either for Treaſon or Felony,

Felony, as a Subject might, becauſe that if the King did wrong, the Party could not have his Action againſt him.

Anſw. *If Juſtices of Peace are cloath'd with the Power of Impriſoning without Proceſs*, &c. *what ſhould* They *be who ſit at the Helm to inſpect their Proceedings, and have it in their power to puniſh 'em, by calling them to an Account for Abuſes or Maleadminiſtration? They are no Court of Judicature, but they are part of thoſe Eſtates from whence all Courts of Judicature belonging to this Nation have had their firſt Eſtabliſhment, and ought to have the Preference, as much as the* thing created *is inferiour to* Him that made it. *As for Sir* John Markham's *Obſervation, that the Subject can have no Action againſt the King, the many Law-Suits we have ſeen commenc'd lately between the* King *and the* Subject *make appear to the contrary; for otherwiſe a Prince may do what he pleaſes, and ſeize upon any one's Eſtate without any manner of Right to it.*

It may be farther urg'd, That as Judges having a Power to ſettle and determine Property, is a reaſon why they ſhould have a Power to impriſon, becauſe the one is impracticable without the other: So the Houſe of Commons not having a Power to determine concerning Property, is a reaſon why they ſhould not have a Power to impriſon. *Cui non convenit minus, ei non majus convenit*, is a Maxim among the Logicians, and is a good Argument in the preſent Caſe. If the Houſe of Commons have no Power over our Goods, then *a fortiori* not over our Perſons to impriſon them, becauſe they are much more valuable than either Goods or Lands. This *Chriſt* himſelf declares, when he tells us, that *the Body is more than Raiment*, where by *Raiment* the *Canoniſts* underſtand all outward things whatſoever. Our Laws alſo make this clear, and give the preference to the *Body*. 'Tis

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a Rule in Law, that *Corporalis injuria non recipit æſtimationem e futuro:* So as if the Queſtion be not for a Wrong to the Perſon, the Law will not compel him to ſuſtain it, and afterwards accept a Remedy; for the Law holds no Damage a ſufficient Recompence for a Wrong that is Corporal. There are Caſes in Law that prove this Rule. If one menace me in my Goods, or that he will burn the Evidence of my Land which he hath in his Cuſtody, unleſs I will make unto him a Bond, there I cannot avoid the Bond by pleading of this Menace: But if he reſtrains my Perſon, or threatens me with Battery, or with burning my Houſe, which is a Protection for my Perſon, or with burning an Inſtrument of Manumiſſion, which is an Evidence of my Enfranchiſement; upon theſe Menaces I ſhall avoid the Bond by Plea. So if a Treſpaſſer drive my Beaſt over another Man's Ground, and I purſue to reſcue it there, I am a Treſpaſſer to him on whoſe Ground I am: But if a Man aſſault my Perſon, and I for my Safety fly over into another Man's Ground, there I am no Treſpaſſer to him: for *quod quis in tuitione ſui corporis fecerit, jure id feciſſe exiſtimatur*; What a Man does in defence of his Perſon, he is reckon'd to do it lawfully. Nay, which is more, the Common Law did favour the Liberty, not only of Freemen, but even of the Perſons of Bondmen and Villains, who have no Right of Property in Lands or Goods, as Freemen have. The Lord by the Law could not maim his Villain; nay, if he commanded another to beat him, and he did it, the Villain ſhould have his Action of Battery for it againſt him. If the Lord made a Leaſe for Years to his Villain, if he pleaded with him, if he tender'd him to be a Champion for him in a Writ of Right, any of theſe Acts, and many others, were in the Law Enfranchiſements, and made thoſe Villains Freemen. From all which it appears, That the Law has a

greater regard to our Perſons than Eſtates; which, as I ſaid, is a good Argument why the Houſe of Commons, who have nothing to do in regulating or determining our other Properties, ſhould not have a Power over the Liberty of our Perſons.

Anſw. *The Commons have a Right to determine and ſettle Properties, if the many Bills paſs'd in their Houſe relating to Entails of Eſtates, and the many Pleadings by the Learned in the Law before 'em as Judges, can entitle 'em to it. They cannot indeed alter a Settlement without Application made to 'em by the Parties concern'd; neither can a Judge give his definitive Sentence in a Cauſe, without it be brought into Court. As they are authoriz'd to be Judges in matters of Eſtate that are doubtful, ſo it is apparent from Example, and one of a freſher Date, the Caſe of Sir* John Fenwick, *they can go beyond* Impriſonment *of the Body, and puniſh it with* Death. *If therefore they can* Attaint *where the Laws that have been made are of no force, and the Interpretation of 'em is in favour of the Criminal, they may certainly* Impriſon *by his own approv'd Maxim, ſince Confinement is a buſineſs of leſs Concern than that which is incomparably ſuperior to it,* (viz.) *Infliction of Death.*

Sir *John Forteſcue*, the Learned Chancellor to King *Henry* VI. writing (*de Dom. Polit. & Regal.*) of this Kingdom, ſaith, *Regnum illud in omnibus Nationum & Regum temporibus, iiſdem quibus nunc regitur legibus & conſuetudinibus regebatur.* This Saying will not ſute our Times; we cannot ſay, That the *Laws* and *Cuſtoms* which we are govern'd by, are the very ſame with thoſe by which this Kingdom was govern'd in the Times of all the former Kings, and the ſeveral Nations that came in hither. The Power aſſum'd by the Houſe of Commons in executing Laws, and impriſoning Men, is a very new thing, and makes our preſent State very different from our antient Conſtitution.

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lute Power, and compellthem to that which is againſt the Right of their Freedom. To be free from ſuch Force is the only Security Men have of their Preſervation, and Reaſon bids them to look on thoſe as Enemies to their Preſervation, who would take away that Freedom which is the Fence to it; and ſo conclude that they have a Will and Deſign to take away every thing elſe, ſince that Freedom is the Foundation of all the reſt.

Anſwer,

The way to defeat the progreſs of Arbitrary Power, is certainly to reſtrain it, but how thoſe Members who have effectualy ſuppreſs'd it in others, have ſtood up ſo Zealouſly for the Liberties of the People, and have been ſuch hearty ſticklers for the Rights of the Commons of England, *againſt the preſumptive Encroachments of the* Lords, *can be ſaid to take the ſame impetuous Meaſures, it is not in my Power to divine. Neither is it my purpoſe, to diſpute* the Wiſdom and Juſtice of their Predeceſſors, *tho' it is my Buſineſs to vindicate the Proceedings of thoſe that are now in Authority, yet if Supplies to the King without any Burthen to the Subject, a ready concurrence to Aſſiſt his Confederates, without coming into an open Rupture with thoſe that were his their Enemies; and the ſincereſt Endeavours for the continuance of the Publick Peace, while they are making proviſion for our Defence, be not as much as has been done in any Parliament; nay, farther, in any Age whatſoever, and preferable to any antecedent Reſolutions, then Patriots that come after theſe worthy Gentlemen, and ſucceed 'em in their care for the ſecurity of the Nations, muſt deſpair of doing any thing that can be praiſe worthy ſince, if theſe are accounted the Nations* Enimies, *it is not in the Power of Humanity to be its* Friend.

From what I have here delivered concerning the Power of impriſoning in the Lower Houſe, 'tis evident, I think, that if Petitioning, as the *Kentiſh* Gentlemen did, had been an illegal Act, and the

the Puniſhment enjoin'd by the Law had been Impriſonment, yet it belong'd not to them to inflict that Puniſhment, but to make application (as they have always done heretofore) to have the Law executed againſt them. But if what they did was ſtrictly agreeable to Law, this will make their Commitment a greater Violation of the Rights of the Community. That it was ſo, will appear, when we conſider.

Anſwer,

He has hitherto been deliver'd *like the Mountain in the Fable, nothing but inſignificancies and Productions of ridiculous Conſequences, and affirms he has made out the matter he took in Hand to a Tittle; when the Reader has reaſon to have other Sentiments, and entertain Notions of another Proportion than what he lays down for undoubted Truths. Thoſe that can Command others to proſecute as Attorny Generals, &c. have an indiſputable Title to Impriſon, ſince Proſecution is precedent to Puniſhment, and conſequently is of more moment than Impriſonment, which only a bare Confinement of the Perſon without affecting his Life, or Eſtate, which are in Danger from it, and the Old Maxim holds good, that* omne Majus continet in ſe Minus.

The Second thing propos'd, *the Subject's Right of Petitioning*. This Right I take to be as large and ample a one, and what will as little bear controverting, as any thing that we can think of, ſince 'tis juſtified by the Law of Nature, the Practice of all States in the World, and is allowed by the Laws of this Land.

'Tis certain that nothing can be more agreeable to Nature, and a plainer Dictate of Reaſon, than that thoſe who apprehend themſelves aggriev'd be allow'd a liberty to approach thoſe by Petition who know their Grievances, or perhaps are the Authors of them, and conſequently able to redreſs them. When Men enter'd firſt into Society, and gave

gave up that Right which they had to ſecure themſelves in the State of Nature, 'tis manifeſt that they did it for the preſervation of Property, which is the end of Government. This neceſſarily ſuppoſes, and indeed requires, that People ſhould have Property, without which they muſt be ſuppoſed to loſe that by entering into Society, which was the end for which they enter'd into it. If Men enter'd into Society to preſerve it, and therefore are ſo entitled to it, that (as a very Learned and Ingenious Author tells us) *The ſupreme Power cannot take from any Man any part of his Property without his own conſent*; Can any Abſurdity be ſo groſs, as to imagin, that Men gave up their Right to pray for Redreſs, if they thought themſelves injur'd intheir Properties? Or that theſupreme Power may hinder them to pray for that which they have not a right to deprive them of? Wherever therefore any Government is eſtabliſhed there the natural Right which People had to ſecure what was their own, muſt be ſo far at leaſt continued, as to allow them a liberty to Petition for what they think their Right, becauſe this is a Priviledge which they could not give up, when they enter'd into Society. And where there has been no government but the Prince's Will, even there this Right has ſeemed ſo natural and agreeable to Reaſon, that it has not been denied. This might be ſeen in all the Arbitrary Governments of the World. In the *Roman* Empire *Julius Ceſar*, when he was in the heighth of his Power, and made himſelf *Perpetual Dictator*, permitted the People to repreſent the Hardſhips that were put upon them, and pray for redreſs. And in the Reign of other Princes who exercis'd a Deſpotick Power, whilſt the *Lex Regia* prevail'd *reſcribere Principi*, to petition the Prince, and ſet forth their Grievances, was allowed their Subjects as the natural Right of Mankind.

Anſw. *No Man living contraverts the Subjects right of* Petitioning, *but that is not the Caſe in hand, it's the Writers buſineſs to prove that* Libelling *is Lawful. The moſt virulent Piece of Treaſon imaginable may go under the Name of a Petition, and be gloſs'd over with a Specious fair Title, when the contents of it are embitter'd againſt thoſe in Authority, and aim at the very Foundation of the Regal Supremacy. In* Charles the Martyr's *time Faction skulk'd abroad under the Covert of Remonſtrances, and Petitions to Kings were as full of Blaſphemies, as thoſe which were ſent up from the Pulpits to the divine Majeſty; the Removal of evil Councillors was the pretence they made uſe of when the downfal of Monarchy was what was realy intended; as what the* Kentiſh Gentlemen *deſign'd by finding fault with the proceedings of Parliament and making uſe of the* Voice of the People, *to put down St.* Stephens *Chappel over their Repreſentatives Head, looks very much like Something of the ſame complexion. As for* Julius Cæſar *in his Perpetual Dictatorſhip he permitted the People to have Acceſs to him on Account of real Grievances, but when one* Popilius *whiſper'd unſeaſonable Advice in his Ear, he ordered him immediately to be puniſh'd by the Lictor, as an interfering Coxcomb, and one who concern'd himſelf with buſineſs above his Sphere.* Marcus Antonius *likewiſe caus'd* Cicero *to be Aſſaſſinated, and put to Death, tho' he had been* Conſul *of* Rome, *which is a Poſt of Honour ſomething above a* Kentiſh Juſtice *of the Peace, becauſe he did* ſpargere voces in Vulgus, *inſinuate to the People, that* Anthony's *Proceedings were Irregular, that it tended to ſubvert the Conſtitution of the Roman Republick, &c.*

If this Right be natural, the People of *England*, who have loſt as little by entring into Society as any others, muſt have as juſt and ample a Claim to it as any Nation in the World. That they have

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a Right to repreſent their Sufferings, and pray for a Relaxation of them, is evident from the Opinions of our Sages of the Law, from what our Kings have permitted and declared, and what has been declared and enacted in Parliament.

Our Books are very clear in this matter. My Lord Chief-Juſtice *Hobbart* tells us, That 'tis lawful for any Subject to petition the King for redreſs in an humble manner; for (ſays he) *Acceſs to the Sovereign muſt not be ſhut up in caſe of the Subject's diſtreſs.* This Right was fully prov'd by the Learned Councel at the Trial of the ſeven Biſhops, and allow'd by the Judges. It was one of the Crimes for which the *Spencers* were baniſhed, that they hinder'd the King from receiving and anſwering Petitions from Great Men and others; and one Article againſt the Lord *Strafford* was, That he iſſued out a Proclamation and Warrant of reſtraint to inhibit the Kings Subjects to come to the Fountain their Sovereign, to deliver their Complaints of Wrongs and Oppreſſions.

Anſw. *The Right of Petitioning for Aſſiſtance in Caſes of imminent Danger, is not only agreeable to the Law of Nature, but directly commanded by the great Law of Self-preſervation: But to diſperſe Fears and Jealouſies when there is no occaſion, to call out for Help, like the Shepherd's Boy in the Fable, when there are no Wolves at hand, is to divert our Protectors from aſſiſting us when there are imminent Dangers that* actually *threaten us. In the* BISHOPS *Caſe, thoſe Right Reverend Fathers of the Church ſtood accus'd on account of their indiſpenſable Duty: They petition'd the King as the Directors of his Conſcience, and his ſpiritual Adviſers, in relation to His Majeſty's Declaration, but did not interfere with his Prerogative, as the* Wiſe Men of Kent *did with that of their* Repreſentatives; *and it is but too viſible what ſide their Advocate inclines to, when he produces an Article that was brought againſt the Lord* Strafford,

who was guiltleſs of the Offences laid to his Charge, tho' he was murder'd for 'em, to juſtifie the Right of Libelling Governments, and bantering the Proceedings of Parliaments.

As the Sages of the Law have told us, That 'tis our undoubted Right, ſo have our Kings in all Ages permitted us by Petition to inform them of our Grievances. In the Reigns of King *Edw.* II. and King *Edw.* III. ſuch Petitions were frequent, and then even *Ireland* was allow'd to repreſent their Grievances, and petition for a Parliament.

Doctor *Burnet*, the Learned Biſhop of *Salisbury*, informs us, That King *Henry* VIII. told his Subjects, when in Arms againſt him in *Yorkſhire*, that they ought not to have rebell'd, but to have applied themſelves to him by Petition.

King *James* I. by a Proclamation publiſh'd the 11th year of his Reign, begins thus: *The Complaints lately exhibited to Us by certain Noblemen and others of Our Kingdom of* Ireland, *ſuggeſting Diſorders and Abuſes, as well in the Proceedings of the late-begun Parliament, as in the Martial and Civil Government of the Kingdom, We did receive with all extraordinary Grace and Favour.* And by another Proclamation he declares, That *'twas the Right of his Subjects to make their immediate Addreſſes to him by Petition* And in another he tells his People, That *his own, and the Ears of his Privy Council, did ſtill continue open to the juſt Complaints of his People. ------And that they were not confin'd to Times and Meetings in Parliament, nor reſtrain'd to particular Grievances.*

It appears by the Lords Journals in the Year 1640. that the Houſe of Lords both Spiritual and Temporal, *Nemine Contradicente*, voted Thanks to thoſe Lords who petitioned the King at *York* to call a Parliament: And that King by his Declaration 1644. declared his Royal Will and Pleaſure,

ſure, That all his loving Subjects, who have any juſt Cauſe to preſent, or complain of any Grievances or Oppreſſions, may freely addreſs themſelves by their humble Petition to his moſt Sacred Majeſty, who will graciouſly hear their Complaints.

On *Wedneſday* the 27th of *October*, 1680. it was reſolv'd in the Houſe of Commons, *Nemine Contradicente, That it is, and* EVER *hath been, the undoubted Right of the Subjects of* England *to petition the King for the calling and ſitting of Parliaments and redreſſing of Grievances.* 'Twas then likewiſe reſolv'd, *Nemine Contradicente, That to traduce ſuch Petitioning as a violation of Duty, and to repreſent it to his Majeſty as tumultuous and ſeditious, is to betray the Liberty of the Subject, and contribute to the Deſign of ſubverting the antient legal Conſtitution of this Kingdom, and introducing Arbitrary Power.* On the *Friday* following (as we find in the ſame Journal) it appearing to the Houſe, upon the examination of ſeveral Witneſſes at the Bar thereof, upon the Evidence againſt Sir *Francis Withins*, as well as upon his own Confeſſion, that he had preſented an Addreſs to his Majeſty expreſſing an Abhorrency to petition his Majeſty for the calling and ſitting of Parliaments; 'twas reſolv'd, *That Sir* Francis Withins, *by promoting and preſenting to his Majeſty an Addreſs expreſſing his ſaid Abhorrency, hath betrayed the undoubted Rights of the Subjects of* England. 'Twas moreover order'd, that he ſhould be expell'd the Houſe, and that he ſhould receive his Sentence upon his knees.

Anſw. *I have too great a deference for the Sages of the Law, not to agree with them that 'tis part of the Privileges that a Subject enjoys, to petition his Prince: but muſt take the freedom of thinking that in* Edward *the 2d, and 3d's days they had not the liberty of ſo frequently making Addreſſes to the Throne, had there been any* Colepeppers *or* Pollhills, &c. *to take the buſi-*

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neſs of Privy-Councellors upon 'em, without a Privy-Councellor's Underſtanding. And tho' what the Biſhop of Salisbury *writes may carry an Authority with it in relation to King* Henry *the 8th's Speech to his Subjects, that Prelate can remember a Perſon he is very well acquainted with, did not take the Advice, but appear'd in open Arms againſt his Sovereign. King* James *the 1ſt's two Proclamations have likewiſe no more in 'em to make for his purpoſe, than what has preceded, ſince they were grounded upon* Juſt Complaints, *which are excluſive of the* Kentiſh *Petitioners, who had no Grounds or Reaſons for their Arrogance; and the Quotation from the Lords Journals, if we conſider the Times the Reſolution was made in,* (viz.) *the very Infancy of Rebellion, and beginning of the Civil War which was then in projection. The* Reſolutions *of the Year* 1680. *are much of the ſame ſtamp, if we conſider from what hands they came; and thoſe Members that could juſtifie the Treaſons and Seditious Speeches of* Stephen Colledge, *are not to be ſuppos'd to be Enemies to Remonſtrances againſt the Proceedings of Supreme Authority, when their very Being tends to Confuſion and Anarchy.*

This Right of the Subject to petition, is farther confirm'd by the Statute-Law of this Land, particularly in an Act made in the 13th year of King *Charles* II. the Enacting part of which I will here at large ſet down, becauſe 'tis a plain Declaration of the Subjects Right in the Caſe of the Petition now under our Conſideration.

'Be it Enacted, *&c.* That no perſon or perſons 'whatſoever ſhall from and after the firſt of *Auguſt*, '1661. ſolicit, labour, or procure the getting of 'Hands, or other Conſent, of any Perſons above 'the number of Twenty or more, to any Petition, 'Complaint, Remonſtrance, Declaration, or other 'Addreſs to the King, or both or either Houſes of 'Parliament, *FOR ALTERATION OF MATTERS*

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'*ESTABLISHED BY LAW IN CHURCH OR* '*STATE*, unleſs the Matter thereof have firſt been 'conſented to, and order'd by three or more Juſti-'ces of the County, or by the major part of the 'Grand-Jury of the County or Diviſion of the 'County where the ſame ſhall ariſe, at their pub-'lick Aſſizes, or General Quarter Seſſions; or if 'ariſing in *London*, by the Lord Mayor, Aldermen, 'or Commons in Common-Council aſſembled; 'and that no Perſon or Perſons whatſoever ſhall 'repair to his Majeſty, or both or either Houſes 'of Parliament, upon pretence of preſenting or 'delivering any Petition, Complaint, Remon-'ſtrance, or Declaration, or other Addreſſes, ac-'companied with exceſſive Numbers of People, 'not at any one time above the number of ten Per-'ſons upon pain of incurring a Penalty not exceed-'ding the Sum of one hundred Pounds in Money, 'and three Months Impriſonment.

'Provided always, That this Act, or any thing 'therein contain'd, ſhall not be conſtru'd to ex-'tend to debar or hinder any Perſon or Perſons, 'not exceeding the number of Ten aforeſaid, to 'preſent *ANY PUBLICK OR PRIVATE GRIE-'VANCE OR COMPLAINT TO ANY MEMBER 'OR MEMBERS OF PARLIAMENT*, after his 'Election, and during the Continuance of the 'Parliament, or to the King's Majeſty, for any 'Remedy to be thereunto had.----

Anſw. *The Act in the* 13*th Year of King* Charles *the* 2*d. was expreſly deſign'd againſt tumultuous Petitioning, as may be ſeen from the Preamble, which lets us into the Intentions of it; and becauſe it was not to be ſuppos'd that Juſtices of Peace would ſet their hands to every ridiculous Whimſey ſome Malecontents might entertain in relation to Governments, was worded after that manner. But the County of* Kent *has furniſh'd us with Examples to the contrary, and made appear that there are more than twenty Juſtices that*

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are Fools enough in it to ſubſcribe what is againſt its Profit, and are ready to run mad *for a new War, when the Charges of the laſt have been enough to make 'em* ſober.

Concerning this Statute we may obſerve Four things: Firſt, That it allows (as Mr. Serjeant *Levins* obſerv'd in the Trial of the ſeven Biſhops, and we are taught by ſeveral other good Authorities) that by the Law of the Land before, it was the ſettl'd and undoubted Right of the Subjects of *England* to apply themſelves to the King, or either or both Houſes of Parliament, by Petition, to have their Grievances redreſs'd. Secondly, That where it limits this Power of the Subject, and requires that the Petition ſhall be conſented to and order'd by three or more Juſtices of the County, or by the major part of the Grand-Jury of the County, or Diviſion of the County where the ſame Matter ſhall ariſe, or by the Lord Mayor, Aldermen, or Commons in Common-Council aſſembled, if it ariſe in *London:* 'tis only in a particular Caſe, where the Addreſs is for *Alteration of Matters eſtabliſh'd by Law in Church or State.* Thirdly, That even in this Caſe the Concurrence of thoſe Perſons is not requir'd, unleſs it be where there are more than Twenty Hands to the Petition. Fourthly, That the Act extends not to Grievances or Complaints either Publick or Private, but that they may be preſented to the King or Parliament, without any of thoſe previous Formalities, provided that the Petition or Addreſs be not preſented by more than Ten.

Anſw. *Mr. Serjeant* Levins *his Obſervatins at the Trial of the Seven Biſhops are taken notice of very* mal a propos *in reference to the Five* Kentiſh-*men, becauſe their Caſe is as different from each other, as a Libel to create Tumults, is from an Addreſs to beſeech*

His

His Majeſty not to impoſe upon one's Conſcience; and tho' the Petition *(as they call it) was lawful in the Manner or* Form *of preſenting it, being not brought up by more than* Ten *yet it was Illegal in the Deſign, as well as exceptionable from ſome words which were reflective on the Honour of Parliaments in it.*

Having mention'd this Act, which (tho' made to limit and reſtrain the Subject, and curtail his natural Right of petition) is a full Declaration of the Peoples Right to apply themſelves to the King or Parliament *by Petition, for the Redreſs of their Grievances, and for obtaining ſuch things as they apprehend neceſſary or beneficial to the Safety or Well being of the Nation.* I need not urge any other Authorities, nor take notice even of that Act paſs'd ſince the Revolution, wherein the Rights of the People are contain'd, and that of Petitioning is declar'd to be one. 'Tis evident to any Reader of the moſt ordinary Capacity, that the *Kentiſh* Petition is warranted by the Law of the Land, and ſo plainly within the Letter of that Act, that thoſe Men are forc'd to acknowledge it, who take a great deal of pains to juſtifie all the Proceedings of the Houſe of Commons. Was it not then (to uſe the Words of *Legion*) *illegal, and a notorious Breach of the Liberty of the Subject, and ſetting up a Diſpenſing Power in the* Houſe of Commons, *to impriſon Men who were not their Members, by no Proceedings but a Vote of the Houſe, and to continue them in Cuſtody* SINE DIE? A late Pamphleteer, by way of Anſwer to this, tells us, That *to ſay this is done by a ſingle Vote without other Proceedings, is meer Babling and Nonſenſe; for Impriſonment is the firſt ſtep in order to future Proceedings, and practis'd by every ſingle Magiſtrate.* What does this Scribler mean? Were not thoſe Petitioners impriſoned by a Vote of the Houſe, without any other Proceedings? Was there any Indictment, or legal

Proceſs to try whether they were guilty of any Treſpaſs againſt the Law? For what reaſon does he tell us, that *Impriſonment is the firſt ſtep in order to future Puniſhment?* Would he thereby inſinuate that their Crime was ſuch as might be further puniſh'd by Law? Their Judges in St. *Stephen*'s Chappel knew very well that it could not. If it could, why were they not proceeded againſt? Why were they kept in Priſon till the end of the Seſſion? If they could not, why ſhould they be impriſon'd at all, ſince it could be in order to no future Proceedings? But he tells us, That *this is practis'd by every Magiſtrate.* 'Tis true, they impriſon, but 'tis to keep the Peace, and in order to future Puniſhment; and what they do, is allowed and warranted by the Law of the Land. From what I have already ſaid in this Diſcourſe, 'twill appear how abſurd it would be to make this an Argument for the Commons having ſuch a Power as they have us'd in impriſoning thoſe Gentlemen. The Reader will from hence judge whether *Legion* or this Author is moſt guilty of *Babbling* and *Nonſenſe*. The Deſign of this Pamphleteer is to throw all the Dirt he can on the late Miniſtry, to bring them under the Odium of the Nation, (a Work which the *Jacobites*, the *French Party*, and *Papiſts* of *England* are now, and have been a great while very intent upon) and to recommend the Proceedings of the Houſe of Commons, and the preſent Miniſtry to the People. Theſe are the Perſons pointed at in the Title of his Book, which he calls, *England's Enemies Expos'd, and its true Friends and Patriots Defended.* If he ſhew no better Judgment in diſcovering who deſerve to be called the *Enemies*, who the *Friends* of *England*, than in laying the Charge of *Babbling* and *Nonſenſe*, he will do as little Service to *England* in helping her to make any uſeful Diſcovery of her real Friends and Enemies, as he has done to his

Friends

Friends by his poor, his paltry, and palpable Flatteries. The Prince of Darkneſs, when he goes up and down to do Miſchief, and deſtroy the Kingdoms of the Earth, as he turns himſelf into an Angel of Light, ſo has he Enemies, *qui nigra in candida vertunt*, little Hirelings, whoſe Task it is to call *Evil Good, and Good Evil*; to deceive with falſe Colours, that he may be the better able to deſtroy. To give People a little taſte of this Panegyriſt's Impoſitions, and the Judgment he has made of Men, I will only take notice here that he commends the *Fair Character* of Mr. *J--n H-w*, and calls him (who moſt certainly call'd the Treaty made by the King *a Felonious Conſpiracy*) *A Zealous Patriot*, and one *who will not exceed his Duty*; that he repreſents the Spe--er as a Perſon deſerving *the honourable Character of an honeſt* Engliſh *Gentleman, a Champion for Liberty, and a true Patriot, without Diſguiſe, Colluſion, or Self-Intereſt*; that *they whoſe long Experience in Publick Affairs gave them knowledge of the Methods employ'd by* France *in former Reigns, to enſlave* Europe, *are beſt able to prevent his Deſigns in this*; that *tearing up our Conſtitution by the Roots* is the Work of the late Miniſtry; that they *have betray'd the King*, and *carry on Purpoſes deſtructive to the Nation*; that if we have a *Porto-Carero* in the Nation, 'tis He *who has done his utmoſt to deliver us up to* France, *by inveſting the Moſt Chriſtian King with a Power to ſeize us*; that 'tis He (meaning *L--d Hall--ax*) to whom *French* Gold is given. Strange Effrontery! Had Sir *Bar-----w Sh--er* ſpoken this, I ſhould not wonder at it; he, we know, when the Lords were voted Guilty of High Crimes and Miſdemeanours for the Treaty of Partition, and an Impeachment was ordered, did not bluſh to ſay openly in the Houſe, That the News of it would be very unwelcom at *Verſailles*.

Anſw. *As for his Reflections on the* Pamphleteer *that anſwer'd* The preſent Diſpoſition of *England* conſider'd, *&c. they are foreign to the purpoſe, and would almoſt perſuade one that it came from the ſame Hand. Had not I ſome knowledge of the Author, who is ſo far from being a* Jacobite, Papiſt, *or of the* French Party, *that he is hated by 'em, as a Perſon that has been all along employed by the Creatures of* this Government, *to make Diſcoveries of their Proceedings, and prevent their Deſigns. To my knowledge his Pamphlet owes its birth to his Circumſtances; and had the* Court *made better Proviſion for him, he would ſcarce have fallen out with the* Courtier, *and the* Lord Halliſax *would have had as good a Character from him, as Mr.* How *and the* Speaker, *had but his Penſion continu'd to come trowling in from the* Treaſury, *and he not found himſelf under a neceſſity of taking other Meaſures. The Author of* Legion *and He probably might come from the ſame place of Inſtruction, ſince their Language is equally foul and ungentleman-like: But for the Reflection on Sir* Bartholomew Shower, *by ſuch a mean Compariſon, the Author of this very Pamphlet ſhews that he knows how to join in Conſort with the two Scribes before-mention'd, who blended together would make an admirable ſort of a* Triumvirate.

But to return from this Digreſſion to the matter in hand. Thoſe who cannot deny that the Subject has a Right to Petition, yet juſtifie the Proceedings againſt thoſe who deliver'd the Petition, becauſe of its reproaching the honourable Houſe, and preſcribing Rules to our Legiſlators. The Reſolution of the Houſe of Commons concerning it was, that *'twas ſcandalous, inſolent, and ſeditious, tending to deſtroy the Conſtitution of Parliament, and to ſubvert the Eſtabliſhed Government of this Realm.* Before I come to a particular Examination

nation of this Reſolution, I muſt crave leave to make this Remark upon it, That this very Cenſure, and the ſevere Treatment of the Petitioners, ſhew us plainly into what hands we are fallen. We remember very well when it was, that Sir *Edward Seymour*, then a Privy-Councellor, and ſome others now in Power, learned the Trick of giving hard Names to Petitions. What I here hint at, I will endeavour to repreſent in the ſhorteſt View I can, becauſe the matter will be pertinent to the Subject I am treating of, and will give true *Engliſh*-men an opportunity of making ſome Reflections which will be uſeful to us in the preſent Circumſtances of our Affairs. We cannot forget what great Concern the Commons of *England* above Twenty Years ſince ſhewed for the Proteſtant Religion; that their Zeal to preſerve it was ſeen in Four Parliaments, which were diſſolv'd in a little more than the ſpace of Two Years, by reaſon of their Warmth in proſecuting Popiſh Conſpirators, and labouring to exclude the Duke of *York*, whoſe Succeſſion to the Crown rais'd the hopes of Papiſts, and gave birth to all their Plots.

Anſwer.

A Digreſſion indeed! and which I am glad to ſee him own, after having ſpent his Venom to no purpoſe. The Reſolution *of the* Houſe of Commons *was Honourable, and it ſhews plainly that we are fallen into ſuch Hands as we may rely upon for Defence, without the Aſſiſtance of ſuch Intermeddlers. Sir* Edward Seymour *keeps up to his* Old Loyal Principles; *and tho' he does not officiate as Privy-Councellor to His preſent Majeſty, is zealous for the Good of the Nation as a Senator, and continues firm to his* Old Principles *of having an* Abhorrence *for Mutinous Aſſemblies, and Deſigns againſt the Government, which ſuch reſtleſs Malecontents as our Author (who ſo zealouſly*

lously ſtands up in Vindication of Injuſtice in the Bill of Excluſion againſt His late Majeſty when Duke of York, *and Preſumptive Heir of the Crown) are perpetually contriving.*

The firſt was the long Parliament, which conſiſted of Members ſo devoted to the Crown, that they would have gratified it in any Demand whatſoever, had not the Meaſures taken to deſtroy *Holland*, the great Friendſhip contracted with *France* by Mediation of the Duke of *York*, and the Growth of Popery ſour'd their Tempers, and given their Inclinations quite another Biaſs. After their Prorogation on the 28*th* of *December*, 1678. which was ſoon followed by a *Diſſolution*, the next Parliament which begun at *Weſtminſter* on the 6*th* of *March*, 167$\frac{9}{}$ purſu'd the ſame Meaſures to ſecure the Religion and Laws of *England*, and were for that reaſon prorogu'd on the 26*th* of *May* following.

The People of *England* alarum'd at this, and growing into greater Fears of the Conſpiracy which the Parliament endeavour'd to prevent, ſent Petitions to the King from ſeveral Places, wherein they repreſented the Grievances of the Nation, and pray'd for the ſitting of the Parliament to redreſs them. I ſhall take notice of the Stile of one for all, *viz.* That of the City of *London*, wherein they ſet forth that there is *a moſt damnable and heliſh Popiſh* PLOT, *BRANCH'D FORTH INTO THE MOST HORRID VILLANIES, againſt his Majeſty's moſt Sacred Perſon, the* Proteſtant *Religion, and the well eſtabliſh'd Government of his Realm, for which ſeveral of the principal Conſpirators ſtand impeach'd by Parliament. Therefore in ſuch a time when his Majeſty's Royal Perſon, as alſo the* Proteſtant *Religion, and the Government of the Nation are in moſt eminent Danger, they moſt humbly and earneſtly pray that the Parliament*

ment which is proroagu'd until the 26th *Day of* January *may then ſit, to try the Offenders, and to redreſs all the moſt important Grievances, no otherwiſe to be redreſs'd.* This Petition, which was a Roll of above 100 Yards in length, was preſented by Sir *Gilbert Gerrard*, and eight other Gentlemen of good note. They all fail'd of the deſir'd effect, for the Parliament was diſſolv'd, and none other ſate till *October* following.

Anſwer.

How could the Members of the Long Parliament *be ſaid to be* devoted to the Crown, *when they were for altering the Succeſſion, and ſtriking at the very Foundation of* Monarchy *it ſelf, under the ſpecious pretence of* Securing the Proteſtant Religion? *As for the* City of London's Petition, *thoſe who remember their Practices at that time, can account for the Effects of it; and thoſe who have any knowledge of their Proceedings even at this time, and how they had like to have been guilty of the ſame Premunire with the* Kentiſh *men, but for one ſingle Common-Council-Man's Vote, cannot but be ſatisfied they are as ripe for* Mutiny, *as they were for* Rebellion *at* Edge-hill-*Fight.*

The Men now in Power have not, it ſeems, forgotten how they reſented thoſe Petitions at that time. Their Meaſures then are the very Precedents they copy after now. Tho' 'twas then the Subject's Right to petition, as I have ſhewn it is now; tho' the Petitioners took care to keep within the Bounds of the Law, yet a Proclamation iſſu'd out on the 12th of *December*, 1679. to prohibit ſuch *illegal and tumultuous Petitioning, as tending to Sedition and Rebellion.* Beſides, care was taken to prevail upon their Friends to procure *Counter-Addreſſes*, wherein the Subſcribers expreſt their *Abhorrence of Petitioning.*

Anſw

Anſwer.

The Men then in Power preſerv'd King Charles *the Second's Prerogative, by oppoſing ſuch unjuſtifiable Proceedings, and thoſe in Authority now are ready to do the ſame by King* William's: *and if they take the ſame Meaſures, they do but follow a good Copy, which render'd their* Predeceſſors *Fame of a Loyal Savour, and will deduce* their own *to Poſterity, without any other Aſſiſtance than its own Merit for its Conveyance.*

Theſe Meaſures that were taken to run down this Right of the Subject, and to ſubvert the Conſtitution of Parliament, together with the Diſpleaſure conceiv'd againſt ſome Men of great Poſts in the Law, and Figure in the Civil State, for acting Illegally, and giving *pernicious Councel* (as the Commons were pleas'd to term it) *to his Majeſty*, occaſion'd very warm Votes and Reſolutions in the next Parliament, which, after many Prorogations, ſate on the 21ſt of *October*, 1680. and continued ſitting to the 10th day of *January following*.

Within ſix days after their Meeting, (*viz.* *October* the 27th.) immediately after they had agreed upon an Addreſs to his Majeſty, wherein they expreſs'd their *Reſolution to purſue with a ſtrict and impartial Enquiry the execrable Popiſh Plot*, they proceeded to Votes about Petitions. Then, as I obſerv'd before, 'twas

" Reſolv'd, *Nemine Contradicente*, That it is, " and ever hath been, the undoubted Right of " the Subjects of *England*, to petition the King " for the calling and ſitting of Parliaments, and " redreſſing Grievances.

" Reſolv'd,

" *Resolv'd*, That to traduce such Petitioning as " a Violation of Duty, and to represent it to his " Majesty as Tumultuous and Seditious, is to be- " tray the Liberty of the Subject, and contributes " to the Design of subverting the antient legal " Constitutions of this Kingdom, and introducing " ARBITRARY POWER.

"*Order'd*, That a Committee be appointed to en- " quire of all such Persons as have offended against " these Rights of the Subjects.

The next day (*October* the 28th) Sir *Francis Wythens*, as I have observ'd before, being found Guilty in this particular, they voted him a *Betrayer of the Undoubted Rights of the Subjects of* England, and order'd him to be expell'd the House. The City of *London*, having petition'd the House against Sir *George Jeffereys* their Recorder, and it being referr'd to a Committee, they pass'd this Vote on the 12th of *November* following,

" *Resolv'd*, That this Committee is of opinion, " That by the Evidence given to this Commit- " tee, it does appear that Sir *George Jeffereys*, Re- " corder of the City of *London*, by traducing and " obstructing Petitioning for the sitting of this Par- " liament, hath betrayed the Rights of the Subject. To which the House agreed, and 'twas order'd, " That an humble Address be made to his Majesty " to remove him out of all publick Offices ". They farther Order'd likewise, That the Committee should enquire into all such persons as had been advising or promoting of the late Proclamation, stiled, *A Proclamation against Tumultuous Petitioning*. The Grand-Juries of the Counties of *Somerset* and *Devon* having expressed their Detestation of such Petitioning, the House on the nineteenth of *November* order'd that the two Foremen of the said Juries, and two others, should be sent for in Custody of the Serjeant at Arms, to answer for Breach of Privilege (as they called this Ab-

horrence of Petitioning) by them committed againſt the Houſe. The next day they voted, That one *Thomas Herbert* Eſq. ſhould be ſent for in Cuſtody, for proſecuting *John Arnold* Eſq; at the Council-Table, for *promoting a Petition, and procuring Subſcriptions.* To them they added two others upon the ſame account, whom they call'd, *Betrayers of the Liberties of the Subject.*

Anſwer.

Meaſures were not taken to run down the Right of the Subject, but to aſſert that of the Prince, who was of too gracious a Nature to thirſt after an Exorbitancy of Power, and of too Fatherly a Diſpoſition, not to have a tender regard for the Welfare of his People; and an Impartial Enquiry will inform us, that the Cry of the Houſe at that time was againſt every one that was in Favour of his Prince as a Betrayer of his Country, *and an Enemy to that ſort of Government they were deſirous of introducing. So that it's no wonder that Sir* George Jeffereys, *for adviſing the Citizens, as it was his Duty,* not to Petition, *and Sir* Francis Wythens, *for his Abhorrence of* Tumultuary Proceedings, *fell under the high Diſpleaſure of the Houſe. But I cannot but take notice that the Houſe in thoſe Times of Reformation impriſon'd (that is, order'd Mr.* Herbert *into Cuſtody) one that was not a Member, which is a ſufficient Precedent for what has been done of the ſame nature in this Parliament.*

On *Wedneſday* the fifth of *January*, the Commons order'd an Impeachment againſt Sir *Francis North*, Chief Juſtice of the *Common Pleas*; Sir *William Scroggs*, Chief Juſtice of the *Kings-Bench*, Sir *Thomas Jones*, one of the Juſtices of the ſame Bench, and Sir *Richard Weſton*, one of the Barons of the *Exchequer*. Sir *Francis North*'s Crime was, That he (as appear'd by the Confeſſion of the

Attorney-General before the Houſe on *Wedneſday* the 4th of *November)* was, *Adviſing and aſſiſting in drawing up and paſſing the Proclamations againſt Tumultuous Petitions.* Againſt Sir *William Scroggs* and Sir *Thomas Jones* there were a great many Complaints, which occaſion'd many Reſolutions of the Houſe, and Votes againſt them. One of the great Complaints was, That when the Grand-Jury which ſerv'd for the Hundred of *Oſſulſton* in the County of *Middleſex*, attended the *Kings-Bench* with a Petition, which they deſir'd the Court to preſent in their Name to his Majeſty, for the ſitting of that Parliament, the Chief Juſtice ſaid, he would diſpatch them preſently; That they took it ill to have a Petition offer'd to alter the King's Mind contrary to his Proclamation; That when there were ſeveral Preſentments againſt Papiſts and other Offenders, they diſcharg'd the Grand Jury four days before the end of the Term, which was never done before. This Act they voted *Arbitrary, Illegal, and a high Miſdemeanour*, ſeveral days before this Impeachment was order'd. One of Mr. Baron *Weſton*'s great Crimes was, That, in an extraordinary kind of Charge given the Aſſizes before at *Kingſton* (in the County of *Surrey)* he inveigh'd very much againſt *Farel*, *Luther*, *Calvin* and *Zuinglius*, condemning them as Authors of the Reformation: Which was againſt their Princes Minds; and then adding to this purpoſe: Zuinglius *ſet up his Fanaticiſms*, and Calvin *built on that bleſſed Foundation: and to ſpeak Truth, all his Diſciples are ſeaſon'd with ſuch a ſharpneſs of Spirit, that it much concerns Magiſtrates to keep a ſtreight hand over them; and now they are reſtleſs, amuſing us with Fears,* AND NOTHING WILL SERVE THEM BUT A PARLIAMENT. *For my part, I know no Repreſentative of the Nation but the* KING; *all Power centers in Him. 'Tis true, he does intruſt it*

with his Miniſters, but he is the ſole Repreſentative; and i'faith he has Wiſdom enough to intruſt it no more in theſe Men. who have given us ſuch late Examples of their Wiſdom and Faithfulneſs. Theſe Words (which were witneſſed by ſeveral perſons, ſome of whom put them immediately in writing) made the Committee before whom they were prov'd come to this Reſolution, " That the ſaid Expreſ-" ſions in the Charge given by the ſaid Baron " *Weſton*, were a Scandal to the Reformation, in " derogation of the Rights and Privileges of Par-" liaments, and tending to raiſe Diſcord between " his Majeſty and his Subjects.

Anſwer.

Their Impeachment of the Judges is much of the ſame Complexion with their Treatment of thoſe laſt mentioned; and Petitions againſt Proclamations look ſo very like a Defiance of the Deſigns of 'em, that it was wholly neceſſary to ſuppreſs 'em, in order to keep the Publick Peace. But we have a more clear Indication of their Tempers as well as Religion, from their Vote, That it was a Scandal to the Reformation *for Mr. Baron* Weſton *to call* Zuinglius *his Principles* Fanaticiſms, *and to ſay* Calvin *and* Luther built upon the ſame bleſſed Foundation, *ſince they were altogether very diſtant from the Articles of Religion profeſs'd in the Church of* England *by Law eſtabliſhed.*

Two days after that the Commons agreed upon Impeaching theſe Great Men of the Law (who every one came under the publick Cenſure for appearing *Abhorrers* of Petitioning for the Sitting of the Parliament) they fell into other Votes, which ſhew'd what it was they wanted a Parliament for. Upon a Meſſage ſent to them from his Majeſty, they came to theſe ſeveral Reſolutions following:

" *Reſolv'd,*

"*Reſolv'd*, That it is the Opinion of this Houſe, "That there is no Security or Safety for the Pro- "teſtant Religion, the King's Life, or the Well- "conſtituted and Eſtabliſh'd Government of this "Kingdom, without paſſing a Bill for Diſabling "*James* Duke of *York* to inherit the Imperial "Crown of *England* and *Ireland*, and the Domini- "ons and Territories thereunto belonging: And "to rely upon any other Means or Remedies "without ſuch a Bill, is not only inſufficient, but "dangerous.

"*Reſolv'd*, That his Majeſty in his laſt Meſſage "having aſſur'd this Houſe of his Readineſs to "concur in all other Means for the Preſervation of "the Proteſtant Religion, this Houſe doth de- "clare, That until a Bill be likewiſe paſs'd for "Excluding the Duke of *York*, this Houſe can- "not give any Supply to his Majeſty, with- "out Danger to his Majeſty's Perſon, extreme "Hazard of the Proteſtant Religion, and Unfaith- "fulneſs to thoſe by whom this Houſe is en- "truſted.

"*Reſolv'd*, That all Perſons who adviſ'd his "Majeſty in his laſt Meſſage to this Houſe, to in- "ſiſt upon an Opinion againſt the Bill for Exclu- "ding the Duke of *York*, have given pernicious "Councel to his Maieſty, and are PROMO- "TERS OF POPERY, AND ENE- "MIES TO THE KING AND KING- "DOM.

After theſe General Reſolutions, they ran into ſevere Votes and Reſolutions againſt *Geo--ge* E. of *Hal---x*, *H--ry* Mar--qs of *Wor---er*, *H---ry* E. of *Cla---on*, *Law---ce H-de* Eſq; *Le--s* E. of *Fev---am*. A Motion was alſo made for an Addreſs to his Majeſty to remove *Ed--rd Sey--r* Eſq; from his Majeſty's Council and Preſence, but it was adjourn'd to the *Monday* following, which was the day on which the Parliament was prorogu'd.

The

The reaſon perhaps why they did not preſs this Motion, was becauſe they had agreed upon Articles of Impeachment againſt him, upon other ſcores, juſt twenty days before.

Anſwer.

After they had, as it were, quarrell'd with their God, in the Vindication of falſe Doctrines, and what was diſſonant to the Liturgy of theſe Nations, it was but natural for 'em to fall upon their Prince, and wound his Honour in the Perſon of his Royal Brother and Succeſſor. The Bill of Excluſion was a thing to be agreed upon in return to His Majeſty's moſt gracious Meſſage, and the celebrated Names that bear the Royal Unfortunate Company, amongſt whom is the preſent Earl of Rocheſter, *now Lord Lieutenant of* Ireland, *and his preſent Majeſty's Uncle and Councellor, were to be Sharers with him in his Misfortunes and the Loſs of his Inheritance.* Oh the Effrontery! (*to make uſe of his own words*) *none but a* Calviniſt *would write in behalf of ſuch ſhameleſs Endeavours, and none but a murmuring* Puritan *would defend 'em.*

Their warm Proceedings, and their inſiſting upon that particular Method to ſecure the Proteſtant Religion, occaſion'd not only the Prorogation of this Parliament on the 10th of *January*, but of the following Parliament likewiſe at *Oxford*, which met the 21ſt of *March*, and was diſmiſs'd on the 28th as ſoon as they read the Bill of Excluſion brought in there. On the 10th of *January* the Houſe of Commons knowing that they were to be prorogu'd, before the Prorogation came to ſeveral Reſolutions, two of which I ſhall here take notice of.

1. "*Reſolv'd,*

1. "*Resolv'd*, That whosoever advis'd his Ma-"jesty to prorogue this Parliament to any other "purpose than in order to the passing of a Bill for "the Exclusion of *James* Duke of *York*, is a Betray-"er of the King, the Protestant Religion, and of "the Kingdom of *England*, A PROMOTER "OF THE *FRENCH* INTEREST, "AND A PENSIONER TO *FRANCE*.

2. "*Resolv'd*, That the Thanks of this House "be given to the CITY OF *LONDON*, for "their manifest Loyalty to the King, their Care, "Charge, and Vigilance for the Preservation of "his Majesty's Person, and of the Protestant Reli-"gion". This Care and Concern which the City of *London* shew'd for the Protestant Religion, in that time of imminent Danger, appear'd in many Instances, and in two particularly, which the House thought did then deserve a grateful Acknowledgement, first in petitioning the King for the Sitting of that Parliament; secondly, in voting an Address to his Majesty to declare their Loyalty; and to petition him that the Parliament might sit until *Protestantism was secur'd*.

Answer.

Their warm Proceedings *in those days were not so much the effect of their Zeal for the Protestant Religion, as their Hatred for the Person of the Duke of* York, *who, if any thing could have gain'd upon their Resentments, or abated their Displeasure, was at that time accounted one of the finest Princes in* Europe, *(notwithstanding his late Degeneracy) and had done things for the Publick Service, which had the Acknowledgments of all Christian Princes, and would have work'd upon any bodies Temper, but the minds of some men that were prejudic'd and embitter'd against him: And the two* Resolutions, *One of Censure, by which we may see they were of the* same Stamp *with some that would govern in the* House *now, from their being said to*

PRO-

PROMOTE THE *FRENCH* INTEREST, *as* PENSIONERS TO *FRANCE*, *while they were ſerving their Country*; *and the Other of Thanks, by way of Acknowledgment to the City of* London, *for their great Loyalty to the King, while they were excluding his only Brother from his Right of Inheritance, and the care they had for the* Security of Proteſtantiſm, *at the ſame time as Defamatory Pictures and Libels were handed about to traduce the Hierarchy, and depretiate the Eſteem which was had for the Sacred Order of Biſhops. Thanks be to God, the Tide is turn'd once more in our days, and honeſt Men have the ſatisfaction of ſeeing a Majority in the Court of Aldermen that are true Sons to the Church of* England, *and the Lieutenancy in all probability will in due time be ſo ſettled, that it may be ſaid of our* London *Epiſcopal Churches*, The Gates of Hell ſhall not prevail againſt 'em.

Having given this Account of the Proceedings both of the Courtiers and Houſe of Commons, the one to run down, the other to aſſert the Subjects Right of Petitioning in thoſe days: I muſt crave leave to take notice of what paſſed afterwards, becauſe 'twill be of uſe to us in the matter I am now treating of.

After the Diſſolution of the *Oxford* Parliament, the King publiſh'd a Declaration, wherein he vouchſaf'd *to declare the Cauſes and Reaſons of his Actions to his People.* It might very well be imagin'd, that after the People had ſo univerſally petition'd for a Sitting of the laſt Parliament at *Weſtminſter*, to ſecure their Religion and Liberties, which the Conſpirators were now attacking with the utmoſt vigor, they were more than a little alarum'd to ſee that and the ſucceeding Parliament at *Oxford* ſo ſoon diſſolv'd, and that deny'd them which they thought the only Security for their Religion. He begins therefore with telling them,

That

That 'twas *with exceeding great trouble that he was brought to diſſolve the two laſt Parliaments.* 'Twere well that thoſe who in their Votes concerning the *Kentiſh* Petition, ſhew'd that they have not forgotten the Spirit of the Courtiers at that time, as to their Abhorrence of Petitioning, had remember'd their other Reſentments, expreſs'd in this Declaration, as the Reaſons for Diſſolving that Parliament.

Anſwer.

His Majeſty, as a Wiſe and Indulgent Prince, that had a Fatherly Concern for his People, and a Tenderneſs of Nature that was deriv'd from that Auguſt Family which he ow'd his Being to, was loth that his Subjects ſhould interpret his Actions otherwiſe than they were deſign'd, and put an evil Conſtruction on what was intended to promote the Publick Tranquility: He therefore iſſued out his Reaſons by way of Proclamation, and the indiſpenſable Neceſſity he lay under of Diſſolving that Parliament, that ſo deſpightfully *uſed the Royal Authority, and ſet at nought the Deſires and Requeſts of God's Anointed; and what was urged in behalf of his Proceedings, carry'd ſuch convincing Proofs with it, at the time of its being made Publick, that it ſettled the Minds of thoſe that were wavering in their Duties, and was attended with ſuch good Effects, that* Addreſſes *came to his ſacred hands inſtead of* inſolent Petitions, *and the moſt thinking part of the World was ſatisfied from his Majeſt'ys Actions that he poſtpon'd his own Profit to their Advantage and Eaſe.*

One Complaint is, That the *Commons made arbitary illegal Orders, fer taking Perſons into Cuſtody for matters that had no relation to Privilege of Parliament.* Was it at that time arbitrary and illegal to take thoſe degenerate Wretches into Cuſtody, who publiſh'd under their Hands Abhorrences of Parliaments, and of thoſe who in humble and lawful Manner petitioned for their Sitting in a time of ſuch extream Neceſſity; and is it not now ſo to impriſon and confine Men for doing their Duty to their King and Country, no otherwiſe than the Law preſcribes? Is it a greater Breach of Privilege to ſhew a Letter written by Sir *Ed--rd Se----r*, than, in compliance with a ſtrange arbitary illegal Proclamation, to run down the Subject's Right of Petitioning; and thus, in effect, to ſtrike at Parliaments themſelves, and endeavour to wound the Conſtitution? What would Mr. *Bo---n* have ſaid to this? Surely he muſt have bluſh'd to ſee his old Friends, whoſe Intereſt he then ſerv'd, in running down the *Commons* Power of impriſoning, exerciſe ſuch Acts of Power as were never heard of in *England* before. *Tom Sheridan*, who labour'd in the ſame Cauſe, and wrote againſt that Power of the *Commons*, which he felt in his own Perſon, with as much Warmth as 'twas poſſible for *Bo---n* to do, did he ſee theſe things, wou'd be able perhaps, to behold them with little aſtoniſhment. He knew the Frailty of Human Nature, and carried much of it about in his own Body; for after he had taken a great deal of Pains (as alſo the Royal Scribes of thoſe times, and his Religion did) in decrying *Fanaticiſm* and *Republican* Principles, in crying up Epiſcopacy and the Church of *England*, and reſcuing the Minds of Men from thoſe groundleſs Fears of Popery, which were running them into Meaſures pernicious to the *Duke* his Maſter's

Maſter's Intereſt; he ſaw, poor Man, Popery rampant, and a Popiſh King in *England*; he ſaw the Biſhops, and (which he could not but wonder at) was glad to ſee them, in the Tower; and, which muſt be the greateſt wonder of all to ſuch a zealous Churchman as he was, he ſaw himſelf a Papiſt. It wou'd therefore be now the leſs ſurpriſing to him, to ſee his old loyal Friends turn'd downright Republicans, and as violent in the Houſe of *Commons* for illegal and arbitrary impriſoning, as they were againſt that, and all other Power in the Commons.

Anſwer.

The Complaint had all manner of Juſtice in its ſide, ſince it was certainly a diminution of the Regal Authority, and deſtructive of the King's Prerogative, to impriſon thoſe faithful and affectionate Subjects, that had made a tender to him of their Allegiance and Services; and the Declaration *could not be illegal, ſince it was His Majeſty's Right to iſſue it forth; nor arbitrary, becauſe it contain'd nothing in it that promoted ſuch violent Methods, and was the reſult of the King's Will and* Pleaſure, *in conjunction with the Advice of his* Privy Council, *according to Form, and the ſtanding Rules of the Land: therefore the compliance with it could not wound the Conſtitution, or ſtrike at the Honour of* Parliaments, *when the ill Offices that were done to Sir* Edward Seymour *in relation to the Letter he makes mention, was a manifeſt Breach of* Privilege, *and highly injurious to the Dignity thoſe he repreſented had intruſted him with the preſervation of.*

Another Complaint in the *Declaration*, and a Reaſon given for diſſolving thoſe Parliaments, is their *ſtrange illegal Votes, declaring divers eminent Perſons to be Enemies to the King and Kingdom, and deſiring to have them remov'd from the King's Council and Preſence, without any Order or Proceſs of Law, any Hearing of their Defence, or any Proof ſo much as offer'd againſt them.* The Perſons here pointed at in the Declaration are very well known, ſo is the Crime for which they are Declar'd *Enemies to the King and Kingdom.* Time has ſhewn whether thoſe Parliaments had reaſon to expreſs their Reſentments againſt thoſe Men who adher'd to the Duke of *York*'s Intereſt. Had they been leſs warm for him, they had, perhaps, been kinder to their Religion and Country. 'Tis certain that extraordinary Artifices were made uſe of to ſupport his Intereſt. Such I may call this very *Declaration*, which thought it was reckon'd for very good Reaſons, to be contriv'd by a great *French* Miniſter, tho it came not out under the Great Seal, and was only ſubſcrib'd by *Francis Gwyn* the Clerk of the Council, yet was read publickly in the Churches. Such I may reckon the *Addreſſes* contriv'd and ſent up by Men of the ſame Leven with the former *Abhorrers*: Wherein ſome *aſcribe it to his Majeſty's Wiſdom and Soveraign Authority*, that we are not relapſing *into the Miſeries and Confuſions of Tyranny and Uſurpation, by the ſubtil Artifice and cunning Contrivances of the old* ENEMIES OF THE MONARCHY AND THE CHURCH. Others, *That it is the Kingdom's Intereſt to continue the Succeſſion in its due and right Line*; and take upon them to thank his Majeſty, *for his unalterable Reſolutions to preſerve the Crown in its due and legal Courſe of Deſcent; and undertake to ſacrifice their Lives to preſerve the King's Heirs and lawful Succeſſors*: And *offer their Lives and*

and Fortunes to his Majeſty's diſpoſal for this purpoſe. It muſt be aſtoniſhing as well as ſurpriſing in thoſe Days, that when Petitions had been not only diſcountenanc'd, but forbidden by *Proclamations*, *Addreſſes* ſhould ſo ſoon after be encourag'd and promoted; eſpecially when we conſider that the *Petitions* were in reference to matters which every Body underſtood, and in relation to things wherein the Law juſtified the Petitioners: Whereas Addreſſes reſpected Matters which very few underſtood, and which the Law no way authoriſes private Men to meddle with, and which none ſave a Parliament have Power to decide or determine. If change of Parties in St. *Stephens Chappel* make it not aſtoniſhing to us now to ſee a *H----ſe of Com--s* treat Gentlemen ſo ſeverely as this has done for preſenting a legal Petition, when another Houſe has called others to account for expreſſing their Abhorrence of Petitioning; yet it muſt ſeem a little ſtrange, to ſee thoſe who promoted Addreſſes to the King to ſecure the Intereſt of a *Popiſh Succeſſor*, impriſon ſo many Gentlemen of Worth and Note in their Country, for addreſſing them, and praying in the moſt difficult Times we ever fell into, that our Religion and Safety may effectually be provided for, and that a King, who under God has preſerv'd the Proteſtant Religion, *may be enabled to aſſiſt his Allies*, and conſequently preſerve our Religion and Liberties. But if nothing of this be ſtrange, is it not a little amazing to compare ſome Mens Proceedings againſt others, with thoſe Remonſtrances to the Nation publiſh'd in the Houſes of God, where they complain of *Eminent Perſons* being *voted Enemies to the King and Kingdon*, and addreſs'd againſt to have them *remov'd from the King's Council and Preſence, without any Order or Proceſs of Law, any Hearing of their Defence*? Were ſuch Votes and Addreſſes greater Hardſhips in the Reign of a King who made

made it his Rule to heap Favours on thoſe who were under the Diſpleaſure of the Houſe of Commons, than they are under a Prince, whom the Commons reckon oblig'd in a manner to comply with them in all their Deſires?

Anſwer.

Tho' it could not be arbitrary in the King to iſſue forth a Declaration *according to Law, 'twas a high Preſumption in the Subject to declare divers Eminent Perſons to be* Enemies to the King and Kingdom, *&c. for adhering only to His Majeſty's Intereſt, and the* due Succeſſion *of the Royal Family. The Caſe of thoſe* Noble Peers *was hugely diſtant from that of the* Lords *lately Impeached, who had Articles in due Form and Courſe exhibited againſt 'em for high Crimes and* real *Miſdemeanours, not thoſe that were fictitious, and not proſecuted for want of Evidence; and any one that has any remembranee of King* CHARLES *the Second, and calls to mind his Clearneſs of Wit, and Vivacity of Expreſſion, can never think he ſtood in need of a* French Orator *to dictate to him, or a* Foreign Amanuenſis *to put his Words in due Form for him. As for the Charge he lays upon thoſe Worthy Gentlemen who could not have committed the* Kentiſh Petitioners *without a Majority, I dare affirm that Ten of 'em never ſate in the* Oxford Parliament; *and if the* Commons *of* England *have oblig'd his preſent Majeſty in the Grant of* All, *at leaſt the* Chiefeſt *of his Deſires, it is but a* reciprocal Obligation *that lies upon Him to gratifie them with a Compliance to their Requeſts, that are not detrimental to his* Kingly Authority.

From

From what I have ſaid it appears when, and upon what account the Subject's Right of Petitioning was run down. As the Petitions offer'd by the People were for the Sitting of the Parliament, and that, to have their Religion and Liberty ſecur'd in a time of great and manifeſt Danger: So were the *Abhorrences* of thoſe Petitions ſet a foot, four Parliaments diſſolv'd, the King's *Declaration* containing the Reaſon of it publiſh'd in Churches, and the *Thanksgiving Addreſſes* to his majeſty afterwards procur'd to defeat the Meaſures then taken for the Preſervation of our Religion and to ſecure the Duke of *York*'s peaceable Succeſſion to the Crown. If there be any who conſider, That thoſe who have a concern for the Proteſtant Religion, muſt apprehend at leaſt as much Evil from K. J. or his Family's returning now, as from his Succeſſion at that time, and that as it is of as great Importance to the Affairs of *France* to have him on the Throne, or Confuſion in England, as then it was; ſo Count *Ta---rd* muſt be as induſtrious in taking Meaſures to ſerve his Maſter, as Mr. *Bar----on* was in thoſe Days: It muſt be a very melancholy Reflection to them, to think how differing the Temper of the *Co-----ns* of *England* now is from what it was then: And to ſee the Power in their Hands, who were in all thoſe Court-meaſures which, I'm afraid, have not yet had their worſt Effects.

Anſwer.

The Commons *of* England *have acted this laſt Seſſions ſo little favourably to King* James *his Intereſt, that howſoever induſtrious Count* Tallard *might be for His and his Maſter's Service, he met with very ill Succeſs; which convinces me that he was not ſo laviſh of his* Louis-d'Ors *as our Author would*

would intimate, who ſeems to be altogether in the dark, and as foreign from the knowledge of that Miniſter's Golden Negotiations, *as any man breathing. And the King of* France *has* other Fiſh to fry *in the* Spaniſh *Territories about the Succeſſion, than to be at liberty at this time to aſſert a Prince's Title he has already relinquiſh'd in the late Articles of Peace, and declar'd to be of no Force by his owning King* William. *Monſieur* Barillon's *Induſtry to ſerve his* Maſter *was at a time when the eyes of all our* Europe *were fix'd on the Inclination of this Court, and other Princes waited to take their Meaſures from the Diſcoveries that could be made of which ſide* England *would take, that of* France *or* Spain: *and the* French Miniſter *of a later date employ'd his Artifices to bring over ſome* Courtiers *to his ſide, who were neither honeſt enough to reſiſt* Temptations, *nor had Love enough to their* Prince *and* Country, *not to forward the Intereſt of* another Monarch *by the* Treaty of Partition. *But as for Engagements made with Senators, or Gifts diſtributed to draw over the* Country Party *to his Maſter's ſide, not a Reſolution made during this whole Seſſion of Parliament has given the leaſt grounds for ſuch a Suſpicion, but on the contrary, has made appear to all* Chriſtendom *that the Exorbitant Greatneſs of* France *was an Eye-ſore to them, and they unanimouſly voted ſuch Meaſures to be taken as might ſtrengthen our Alliance with our old Friend and Confederate the Emperour, and in Conjunction with the States of* Holland, *enable him to make good his Pretenſions to the Dominions of* Spain, *which had been in the* Auſtrian Family *for ſome Ages, and were fraudulently uſurp'd by a Young Prince of the Houſe of* Bourbon.

Good

Good-natur'd People, who are as far from being ſuſpicious of others, as they are from evil Deſigns themſelves, do, I know, judge thoſe Men too ſevere in their Cenſures, who think that in the Treatment of the *Kentiſh* Petitioners there were the ſame Regards and Deſigns that were formerly in their *Abhorrences* and *Addreſſes:* Or that this was done to gratify Count *Ta---rd*, and, by ſtriking a Terror, to prevent the People from running univerſally into Petitions and Addreſſes, and conjuring up a Spirit in the Nation which might be very prejudicial to his Maſter's Affairs. 'Tis true indeed, they do, and muſt own, that 'tis hard to account for the Severity of their Proceedings: That when the Law has in expreſs Words provided that People may petition the Parliament, they ſhou'd place ſuch an Affront on the County of *Kent* (I ſhou'd ſay the whole Kingdom of *England*) and to impriſon their Delegates after the manner they did. If every Part of the *Petition* was not ſo nicely worded as they wou'd have it, wou'd it not be ſufficient to reprove them for it? Wou'd no leſs Puniſhment than Impriſonment do? If any of their own Members be at any time tax'd for ſpeaking amiſs, they are ſuffer'd to explain themſelves; why ſhould not they allow others to do the ſame? If there was any thing in the Petition which the Houſe thought a Reflection, one of the Gentlemen told Sir *The--us Ogl--rp*, they wou'd declare at the Bar of the Houſe that 'twas what they did not deſign, and wou'd ask Pardon for it; but nothing wou'd ſerve that Plenipotentiary's turn but to have them declare that they were ſorry for preſenting the Petition, which they never wou'd do.

Anſw. *Whatever he means by* good-natur'd People, *it is not my Buſineſs to explain, but I dare*

affirm that any Perſon of leſs Simplicity than a mere Natural, *with half an Eye can find out the ſame Pernicious Deſigns, as were in the Petitions to King* Charles *the Firſt, and might have had the ſame Conſequences in creating a Miſunderſtanding between* King *and* People, *had not the Prudence of our Senators timely prevented the ſpreading of the Diſeaſe, like Skilful Surgeons that make uſe of Painful Remedies, ſuch as Amputations to ſtop the Progreſs of the* Gangrene--- Ne pars ſincera trahatur, *leſt it ſhould diffuſe it ſelf amidſt the Vitals, and occaſion the Death of their Patient. The Abhorrences in King* Charles *the* 2*d's Time did not aim at the Diminution (or rather Suppreſſion) of the Legiſlative Authority, but were for the Advancement and Increaſe of it, they made the Proſperity of the King, the Succeſs of the People, and interwove the Prerogative with the Immunities of the Subject; when that which is now brought as an Inſtance before us was for placing the whole Authority in the People that ſent it, and impudently aſſum'd the Liberty of* Adviſing *thoſe whom they ſhould* ſeek Advice *from, as they did in a manner declare War, and cry out,* To your Tents, O Iſrael. *Now the Queſtion is, whether Count* Talard's Lovis d' O'rs *had taken their Progreſs into* Kent, *inſtead of making a Viſit to St.* Stephen's *Chappel (as our Author would perſwade the World) for it's as clear as the Light it ſelf, to be the only way to ſet the Nation together by the Ears and create Inteſtine Diviſions, was to advance a Propoſition that one Third of 'em did not think adviſable for their Safety; and* ſound the Trumpet *for a War, when they were yet langniſhing under the Effects of it, and were ſo far from being recover'd to their former State of Health by a* Peace, *that the preſent Tranquility we enjoy, muſt have ſome Years continuance before we can be perfectly able to taſt the Sweets of it.*

That

That which gave offence was, calling their *Addreſſes Loyal*: If they were *Loyal*, it cou'd be no Reflection to call them ſo; if they were not, they had Reaſon I confeſs to think it a Jeer, and at the ſame time they ought to confeſs that 'twas what they deſerv'd. It is moſt certain, that the Deſign of the Gentlemen who ſign'd that Petition, was to ſerve their Country by it, which they did effectually: the Methods then that they made uſe of muſt be ſuch as they thought propereſt for that end; wherefore the Goodneſs and Sincerity of their Intentions muſt ſilence every thing that can be ſaid againſt their way of expreſſing themſelves.

Anſw. *Men are apt to make a Judgment of the* Sincerity *of People's* Intentions *from their Expreſſions, and where* undutiful *Words are made uſe of, there, we may preſume, are ſome Deſigns of falling from* Obedience. *The Epithet* LOYAL *was given to the Parliament Addreſſes by way of* IRONY, *not as if they were not actually ſo, and ſhew'd the Deſign of the* Kentiſh *Petitioners was to defame 'em, by ſaying as much as, their* Hearts were open and ready to make His Majeſty a Tender of their Obedience, but their Purſes were ſhut, and contradicted their fair Speeches by refuſing to give him Aſſiſtance. *If this be not an indecent Reflection upon the Honour of Parliaments, let the Pamphleteer tell me what is, and if he can produce an Inſtance of ſo contumacious a Nature amidſt any of thoſe Reverential* Addreſſes *which he call's* Abhorrences, *I'll fairly own my ſelf in the wrong, and ſubſcribe to the Truth of what he lays down for unqueſtionable Verity.*

The Cenſure of the Commons is very ſevere, they tell us the Petition is *ſcandalous, inſolent, ſeditious, tending to deſtroy the Conſtitution of Parliament, and ſubvert the eſtabliſh'd Government of this Realm.* By the Harſhneſs of the Expreſſions,

a Man wou'd think that this Petition were an Addreſs to a King, or a *Remonſtrance* that charg'd him with a *felonious Conſpiracy*, or making a *Treaty in its own Nature unjuſt*. How can it be *ſcandalous* or *inſolent* for ſo conſiderable a Branch of the *Engliſh* Nation to preſent an humble Petition to their *Delegates*, and pray their *Attorneys* (as *Members* were formerly call'd) to take care of the Buſineſs they intruſted them with? How can it be *ſeditious* to ſhew an extraordinary and unparalleſi'd Zeal for the King, to pray that he may be enabled to *aſſiſt his Allies*, and that *God may long continue his propitious and unblemiſh'd Reign over us?* How can it *tend to deſtroy the Conſtitution of Parliament, and ſubvert the eſtabliſh'd Government of this Realm*, to pray to have thoſe things done, which are abſolutely neceſſary to prevent our falling into the hands of thoſe Enemies who will certainly deſtroy the *Conſtitution of Parliament*, and *ſubvert the eſtabliſh d Government of this Realm*. The laſt *Weſtminſter* Parliament in the Reign of K *Charles* II. Reſolv'd, *Nemine Contradicente*, (as I obſerv d before) *That to traduce Petitioning as a Violation of Duty, and to repreſent it to his Majeſty as tumultuous and ſeditious, is to betray the Liberty of the Subject, and contributes to the Deſign of ſubverting the antient legal Conſtitution of this Kingdom, and introducing Arbitrary Power*. This Parliament reſolves, that the *Kentiſh* Petition tends *to deſtroy the Conſtitution of Parliaments, and to ſubvert the eſtabliſhed Government of this Realm*. 'Tis very ſtrange that to *traduce Petitioning*, and to *petition* ſhou'd both *tend to ſubvert the Conſtitution*.

Anſw. *The Reſolution of the Commons in Reference to the Petition was ſo neceſſary at that juncture, that it could not be tax'd with* Severity, *ſince it prevented the Nation from entring into*

Plots

Plots and Parties, and confederating for each others imaginary Security; and the Expreſſions in it are much more unblameable, than what was made uſe of in the Remonſtrance it Cenſur'd; and the County of Kent *have made themſelves ſo* Inconſiderable a Part of the Nation *by the Preſentment of it, that it was requiſite thoſe Gentlemen who repreſented the* Whole *ſhou'd let 'em know it. It's a warrantable thing to pray for his Majeſty, but it's certainly unjuſt and unmannerly to revile the Repreſentatives of his Subjects, it cannot be ſeditious to ſend up Entreaties to Heaven to preſerve the eſtabliſh'd Government, but it looks like ſomething of the ſame mutinous Complexion, to give Hints in a Petition as if it were in danger, and diſquiet the Minds of the People by acquainting 'em, that Matters were not fairly carried, when the Seſſion has concluded with all imaginable Advantage to the Publick, by the Prudent Management of our Wiſe Repreſentatives.*

If it be the undoubted Right of the Subject to petition, 'twill be very eaſy to determin which of the two *Reſolutions* is righteſt; and if we compare the former Inclinations of a Party with their late Proceedings, 'twill be evident to us, how the laſt *Reſolution* happens to be wrong. But 'tis ſaid that there is ſome thing particular in the *Petition*, which juſtifies this *Reſolution*; the Petition directs the Houſe of Commons, and tells them what they ſhall do; this, they ſay, is inſolent, and *tends to deſtroy the Conſtitution of Parliament, and to ſubvert the eſtabliſh'd Government of this Realm.* Very ſtrange! Can any Man or Body of Men offer a Petition to others, that is not liable to the ſame Cenſure? Does not their Petitioning plainly ſay, that they think themſelves aggriev'd? Does not their Prayer direct thoſe to whom they addreſs, what they are to do? But how this *Petition* of the Grand

Grand Jury, Juſtices of Peace, and Freeholders of the County of *Kent*, can be ſaid to *tend to deſtroy the Conſtitution of Parliament, and to ſubvert the eſtabliſh'd Government of this Realm*, is to me very difficult to conceive.

Anſw. *It's the Subjects undoubted Right to* Petition, *but not to make uſe of Words that ſhew him Superior to the Power he makes Addreſs to, and derogate from their Authority whom he begs Aſſiſtance from. They were not Impriſon'd for* Petitioning, *but taking the Poſts of thoſe Gentlemen the Petition was given to, and Uſurping a* Freedom of Speech *which is not Tolerated in any Perſon that is not a Member of that Venerable Aſſembly. If their Repreſentatives were not Wiſer than themſelves, Why did they Chuſe 'em? If they were not above being Directed, and Capable of making Proviſion for the Security of the Publick, Why were they Entruſted with the Preſervation of their Liberties and all that was Valuable to Men, as Rational Creatures?*

Had this indeed, which is an humble *Petition*, carry'd Authority and Power in it; had they pretended to a Right to command the Houſe of Commons to do what they wou'd have them, I cannot ſee how even ſuch an aſſuming Addreſs as this cou'd bring our Conſtitution into any great hazard. Shou'd the whole Freeholders of the County of *Kent* join unanimouſly in ſuch an Addreſs, yet wou'd the *Power* and *Authority* of the Repreſentatives of the Freemen of *England*, and the *Conſtitution of Parliament*, reſt very ſecure in the Judgment of the reſt of the People, who wou'd never juſtify ſuch an Uſurp'd Authority. An uſurp'd Authority I call it, and muſt ſubſcribe to that, as what I take to be very moderate and juſt, which Colonel *Algernon Sidney* ſays in that Diſcourſe which coſt him his Life; *I believe*, ſays he, *that the Powers of every County, City and Bor-*

Borough of England, *are regulated by the General Law to which they have all conſented, and by which they are all made Members of one Political Body--- Among us every County does not make a diſtinct Body, having in it ſelf a Sovereign Power, but is a Member of that great Body which comprehends the whole Nation.* 'Tis not therefore for KENT *or* SUSSEX, LEWIS *or* MAIDSTONE, *but for the whole Nation that the Members choſen in thoſe Places are ſent to ſerve in Parliament: And tho' it be fit for them as Friends and Neighbours (ſo far as may be) to hearken to the Opinions of the Electors for the Information of their Judgments, and to the end that what they ſhall ſay may be of more weight, when every one is known not to ſpeak his own Thoughts only, but thoſe of a great Number of Men; yet they are not ſtrictly and properly oblig'd to give account of their Actions to any, unleſs the whole Body of the Nation for which they ſerve, and who are equally concern'd in their Reſolutions, cou'd be aſſembl'd. This being impracticable, the only Puniſhment to which they are ſubject, if they betray their Truſt, is SCORN, INFAMY, HATRED, AND AN ASSURANCE OF BEING REJECTED WHEN THEY SHALL AGAIN SEEK THE SAME HONOUR.*

Anſw. *But ſuppoſe this* Humble Petition *aſſum'd a Power which did not belong to Petitioners (as it actually did) where was the fault of ſuppreſſing it? Suppoſe it had no ſuch thing as* Humility *in it, but on the contrary was Arrogant and Preſumptuous, and tended to the creation of Jealouſies, amongſt his Majeſty's good Subjects, why ſhould it not be ſaid* to tend to deſtroy the Conſtitution of Parliaments, and to ſubvert the eſtabliſh'd Government of this Realm? *What has been done, may be done again, and there are ſome living that have ſeen a Civil War ſpring from the ſame Beginnings, and can witneſs ſuch* Humble *Proceedings*

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as these have occasion'd such Insolence as is not to be Parallell'd in History, and such disrespect to Crown'd Heads, as to Condemn Sacred Majesty as the Vilest Criminal, and turn Decency and Order into the greatest Confusion. As for Algernoon Sidney's *System of Government, it probably may please any one that is crept into the same discontented Republican Party, but what he says has little weight with me, I shall therefore only make this Observation, that it's no disgrace to a Cause, to have an Advocate for a declared Traitor who suffer'd the Pains of Death for his Treasons, write against it, but it makes for the Honour of the Proceedings in Parliament, that they run Counter to* OCEANAS *and Factious* DISCOURSES OF GOVERNMENT.

But tho' a part of the Freeholders of *England* cannot impose their Commands on the Representatives of the Whole, yet may they represent any private or publick Grievance; nor can I see how the doing this can tend to destroy the Constitution of *Parliament*. The Meaning of those who tell us that it does, must be this, that some People's complaining in behalf of the Publick, may probably influence others, and thus occasion *Petitions* from all *Parts* of the Kingdom. What if it shou'd do so? What if far the greater part of the Freemen and Freeholders of *England* shou'd send *Petitions*, and represent publick Grievances; how can this tend to destroy the Constitution of Parliament? If there be any Law which forbids the People to address, or give any Instructions to their Delegates, the doing so must be own'd to be against Law; but 'tis not a Trespass, which (to speak in the Phrase of a certain Patriot) can *pull up our Constitution by the Roots.*

Answ. If a Part of the Freeholders of *England* cannot impose their Commands on the Representatives of the whole, *why should not the County*

County of Kent *fall under the Houſe's Diſpleaſure for Attempting it, and if they Repreſent Grievances by way of Upbraiding their Superiors for not Redreſſing 'em, where is the Infringment of the Liberties of the Subject if they are Puniſhed for ſo doing? But here were no ſuch things as Grievances laid before 'em, they wanted a War that others might be Aggrieved, and were wearied with a Peace, that had kept 'em ſomething more Honeſt than ordinary for three whole Years.*

But we are told, that by the Conſtitution of our Parliament, the Members are left to the Freedom of their own Debates, and are to act without Controul; they therefore who take upon them to intermeddle in their Buſineſs, invade that Freedom, and conſequently our Conſtitution. They who tell us that the Repreſentatives of the Freemen of *England* have ſuch a Freedom as this, and are to act without Controul, cannot ſure mean that they have delegated their whole Power to them, ſo that 'tis free for them to do whatever they pleaſe, without any regard to the Inclinations or Intereſt of thoſe who employ them. 'Tis not to be ſuppos'd that he who takes what Servant he pleaſes, is oblig'd to ſuffer him to do what he pleaſes. The Knights, Citizens, and Burgeſſes, ſent by the People of *England* to ſerve in Parliament, have a Truſt repoſed in them, which if they ſhould manifeſtly betray, the People, in whom the Power is more perfectly and fully than in their Delegates, muſt have a Right to help and preſerve themſelves. Were not this ſo, the Condition of thoſe who act by Delegates, would be worſe, and their Freedom leſs than that of other States; which I think is not ſo in the reckoning of Mankind.

Anſw. *The Knights, Citizens and Burgeſſes, are ſent by the People of* England *to ſecure their*

Liberties in Parliament, and take care that the reſpective Places they are choſen for do not ſuffer in the Loſs of their Immunities, or for want of a due Regard to their Cuſtoms and Priviledges. They are a ſort of Champions that undertake our Defence, and eſpouſe our Cauſe, and are as much Superior to thoſe they aſſiſt with their Councils, &c. *as he that makes the Law is to him that is directed by it, or a Perſon* protected *to him that give's him* Protection, *and whatever may be meant by calling them the* Peoples Servants, *'tis certain they are the Peoples* Maſters *by their own Act and Choice, and may keep 'em under ſuch Rules of Government as ſeem moſt adviſeable to the guidance of right Reaſon, and the direction of Wiſdom and Juſtice.*

The *Achaians, Etolians, Latins, Samnites,* and *Tuſcans,* formerly did, as now the United Provinces of the *Netherlands,* the *Switſers,* and *Griſons* do, tranſact all things relating to their Aſſociations by Delegates; The *Athenians, Carthagenians,* and *Romans* kept, as the *Venetians, Genoeſes,* and *Luccheſes* do now, the Power in their own hands. Theſe all, as the above-nam'd Honourable Author obſerves, were and are equally free. But 'twould, I think, be very improper to reckon them ſo, unleſs we ſuppos'd that the Power committed to their *Truſtees* remain'd ſtill in them.

Anſw. A Free State *(as I take it) is a ſort of a Commonwealth that is not Govern'd by a King, but is rul'd by Laws that are not Monarchical, ſuch as* Hamburgh *and other* Hans Towns, *and was what Mr.* Sidney *drove at in his peſtilent Schemes relating to* Government. *Wherefore the Authorities he makes uſe of from the abovemention'd Author are not pertinent to the Buſineſs in Hand, ſince they are recited to Juſtify what they were not written in vindication of, and are brought in to Aſſert what was never intended by them.*

That

That the Power ariſes and is fix'd here, and that the Delegates reckon themſelves oblig'd to follow the Directions of thoſe who chuſe them, is evident from the practice of other Countries, whoſe Governments had the ſame Origin with that of *England*. The Deputies or *Procuradores* of the ſeveral Parts of *Caſtile*, did in the *Cortez* held at *Madrid*, in the beginning of *Charles* the Fifth's Reign, excuſe themſelves from giving the Supplys he deſir'd, becauſe they had receiv'd no Orders in that Particular from the Towns that ſent them; and afterwards receiving expreſs Orders not to do it, they gave His Majeſty a flat denial. The like was frequently done during the Reigns of that Great Prince, and of his Son *Philip* the Second. The ſame way was taken in *France*, as long as there were any General Aſſemblies of Eſtates; and if it do not ſtill continue, 'tis becauſe there are none. For no Man who underſtood the Affairs of that Kingdom, did ever deny, that the Deputies were oblig'd to follow the Orders of thoſe who ſent them.

Anſw. *If I chuſe a Perſon for my Commiſſioner in any Affair, and reſign up the management of my Intereſt entirely to his diſcretion, I inveſt him with the Power I had of doing Juſtice to my ſelf, and have it no longer in my Breaſt to propoſe terms of Agreement*, &c. *I muſt ſtand by his Deciſion in the matter, and hold my ſelf contented with whatſoever Judgment he ſhall make. I may indeed lay forth the hardſhip of my Caſe, and propoſe it to his Conſideration, but I cannot enforce him to act altogether in my favour, and without any regard to Impartiality, decide the matter he is entruſted with, to my Advantage. The ſame may be done by Countys and Burroughs at the Choice of their Repreſentatives, who may be reminded of the ſeveral Grievances the reſpective Corporations lie under;*

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but not by way of Command to redreſs e'm, but by way of entreaty, and in a dutiful manner that becomes Supplicants to petition *for Favours they ſtand in need of.*

In the General Aſſembly of Eſtates held at *Bloys* in the time of *Henry* the Third, *Bodin*, then Deputy for the Third Eſtate of *Vermandois*, by their particular Order, propos'd ſo many things as took up a good part of their time. Other Deputies alledg'd no other Reaſon for many things ſaid and done by them, than that they were commanded ſo to do by their Superiors. Theſe General Aſſemblies being laid aſide, the ſame Cuſtom is ſtill uſed in the leſſer Aſſemblies of Eſtates in *Languedoc* and *Brittany*. The Deputies cannot, without the infamy of betraying their Truſt and fear of Puniſhment, recede from the Orders given by their Principals. The ſame Method is every day practis'd in the Diets of *Germany*; the Princes and great Lords, who have their places in their own Rights, may do what they pleaſe; but the Deputies of the Cities muſt follow ſuch Orders as they receive. The Hiſtories of *Denmark*, *Sweden*, *Poland* and *Bohemia*, teſtify the ſame things.

Anſw. *The General Aſſembly of Eſtates held at* Bloys, *are not govern'd by the ſame Laws and Cuſtoms as our Parliaments at* Weſtminſter, *and in an Abſolute Monarchy as that of* France *is, ſhould there be any thing that look'd like Tyranny in the Prince. it muſt be born with Patience by the People. Some Particular grievances in relation to the Corruption of his Officers might be laid forth in all Probability by* Bodin, *but they durſt go no higher in* Henry *the 3d's Time; or take the Courage as the Patriots in our Days do of adviſing their Prince himſelf, and ſearching into the moſt ſecret Tranſactions of State, for the Security of the People: Their late Conference held with the Houſe of Lords*

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in relation to the Impeachments, gives a noble inſtance of their Greatneſs of Soul, and ſhews that the Old Britiſh *Courage is reviv'd among 'em, and that they not only dare to ſtand up for the Rights of the the Commons, but perſiſt in their Reſolutions of oppoſing the Deſigns of thoſe whoſe Power in former Reigns has been ſo exorbitant, as more than once to have treated* Inferior *Subjects like* Slaves, *and trample under Foot the very Prerogatives of* Princes.

This appears to have been the Conſtitution of *England. Formerly,* ſays my Lord *Coke, in the Writs to the Sheriffs for the election of Commons, the King ſignified that by the Advice of his Council he called them together about ſome weighty Affairs, that concern'd himſelf, the State and Defence of his Kingdom of* England, *and the H. Church, and required them to chuſe ſuch Men as would promote thoſe Affairs; that for want of ſuch a Power, and by an improvident Election, the aforeſaid Buſineſs might not be left undone.* The Buſineſs that required their meeting was publiſh'd in the Writs, that the Commons and Freemen might conſider what they thought convenient to have done, and that they might chuſe proper Delegates, and direct them as they thought fit. This I take to be the Reaſon why *'twas always the Cuſtom at the meeting to declare the cauſe of Parliament, which in antient time, (*ſays he*) was ſhew'd in the Chamber* de peint, *or St.* Edward's *Chamber:* That the Perſons elected being more fully inform'd of the Buſineſs to be tranſacted by them, might be able to give their reſpective Countries timely information of it, in order to receive their Directions therein. In this Opinion we may be confirm'd by what that Great Sage of the Law tells us in another place. · *When any new Device is propos'd on the King's behalf,* ſays he, *the Commons may anſwer, That tendred the King's Eſtate,*

and

and they are ready to aid the same, only in this new Device they dare not agree without Conference with their Countries.

Answ. *My Lord* Coke *in his Institutions by saying* formerly *things were manag'd so and so, does not Affirm matters ought to run in the same Channel* now. Formerly *Rebels dar'd Affront the Legislative Authority, take Arms against their King, and lay violent hands upon God's Anointed; but such Practices are out of door at this time of day, and ought not to be made use of as Precedents for tumultuous Proceedings. There is no reason because Ruffs and Farthingals were made use of in good* Queen Bess *her days, that the Ladies should dress themselves after that Antique Fashion* now. *Our* Edwards *and our* Henrys *had no* Lewis *the 14th to deal with, to oppose their Designs as soon as they were made known to him, and might let the Subject know, by the Writ he was Elected by, what business was to be done in Parliament; but Times are alter'd since their days, and Politicks have quite another sort of Appearance. Our Senators are call'd now by His Majesty's Writ* ad Consulendum in Arduis Regni Negotiis, *to consult about Matters of big Importance, which are of too great moment to be made Publick no otherwise than the Commons themselves at every Session shall think fit.*

Since then in our Constitution the Delegates of the People have reckoned that they had a Trust repos'd in them by those whom they represented, and that they were oblig'd to make their Will the rule of their Actions; 'twill be very hard to conceive how it can tend to destroy this *Constitution, to pray them to have a regard to the Voice of the People.* If they faithfully discharge the Trust repos'd in them by their Country, 'twill be impossible at any time to procure a Petition signed by such a number of Gentlemen as those of the County of *Kent*, wh

may any ways ſeem to arraign their Proceedings; but if their Management bring them under the ſuſpicion of the Nation, the People, who have a right to preſerve themſelves, muſt be allow'd a Liberty, to let them know in civil and reſpectful Terms what is the Voice of the People, and what they think the Neceſſitys of the Publick. In ſuch a caſe 'tis impoſſible for all to repreſent the Publick Grievances together; ſome therefore muſt begin, and they who addreſs firſt, when there is a good reaſon for it, deſerve the Thanks of the Whole. 'Twas impoſſible that ſuch a conſiderable Body of Gentlemen as the *Kentiſh* Petitioners ſhould conſpire together to affront the Houſe of *Commons*; they knew what they did was done in the Eyes and Face of the Nation, that ſuch an Act of folly and madneſs muſt bring 'em into the loweſt degree of Contempt with the People of *England*. They thought therefore what they did was a Duty which they ow'd their Country in that great and nice Juncture; whether it was ſo or no, will appear from

Anſw. The voice *of a Particular Community of* People, *or a ſelect Body choſen out of a County, muſt not be underſtood as if the whole Nation joyn'd with them in their deſires, or reckon'd the* Voice of the People *in General. Each Particular Member of the Honourable Houſe of Commons has a Truſt repos'd in him, for the Preſervation of the Rights which belong to each diſtinct* County, City, *or* Burrough, *and if the Inhabitants of the ſaid Places think themſelves aggriev'd, they ought to Addreſs themſelves only to thoſe* Knights, Citizens, *or* Burgeſſes, *they have had the more immediate* Choice *of, not Petition, or (in more adequate Terms) complain againſt the whole Houſe for their want of Forecaſt, in not preventing thoſe Inconveniencies they fancy themſelves threatned with. Mr.* Meredith,

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one of the Knights of the Shire for the County of Kent, *told 'em the ill Conſequences, and how it would be reſented by the Houſe, nay further, refus'd to deliver the Petition to the Houſe, for fear of the diſpleaſure of that Auguſt Aſſembly, and perſiſted in his Refuſal, till he was threaten'd by one of the Petitioners as a* Betrayer of his Country, *and unworthy to be their Repreſentative; and had it been their Duty to act in ſuch a manner, ſuch a Conſiderable Majority of the Houſe, who had no Perſonal Enmity againſt either of the* five Envoys, *would have ſcarce concurr'd in the Order for their Impriſonment; and His Majeſty himſelf, whoſe Juſtice even the moſt preſumptuous Arrogance cannot diſpute, would never have given Command to have them ſtruck out of the Lieutenancy, and Commiſſion of the Peace, as Mr. Secretary* Vernon *told the Houſe he had.*

The third and laſt Member of this Diſcourſe, which is to ſhew what Reaſons thoſe Gentlemen had to petition.

'Twas notorious to them, and all the World, that our Affairs were at that time in a very dangerous and melancholy Poſture. They knew that *France* has a long time aim'd at the Univerſal Monarchy: That as ſhe has Maxims in her Government which are very well calculated for ſuch great Deſigns, ſo by her carrying on a Ten years War againſt the powerful States confederated againſt her, they ſaw that ſhe has Force to ſupport her in her Enterprizes. If her Power was formidable when ſhe match'd us only in her own Strength, it muſt be very terrible to ſee her ſtrengthen'd with the Union of no leſs a Power than that, which two Ages before graſp'd likewiſe at the Empire of the Univerſe. 'Tis true indeed, thoſe Dominions were not bequeath'd to her; but being given to one of the Houſe of *Bourbon*, who muſt live under the Guar-

Guardianſhip, be protected by the Power, and govern'd by the Councils of *France*, ſhe muſt neceſſarily and of courſe have the ſame command over their Wealth and Force, that ſhe had over her own. This was an early Effect of the *Spaniard*'s Will; for tho' in the beginning the *French* Party among us endeavour'd to make us believe, that *France* would be in no better Condition than 'twas before, becauſe the Duke of *Anjou* would forget his Father's Houſe, and be govern'd only by *Spaniſh* Councils; yet the contrary was evident at the Time thoſe Gentlemen deliver'd that Petition.

Anſw. *Having very methodically conſider'd, or in his own words deliver'd his Opinion concerning the two firſt Parts of the Text that has fall'n under our Obſervation, he apply's himſelf to make out the Third with the ſame Clearneſs and Perſpicuity of Thought. 'Twas* notorious, *ſays he*, to them and the whole World, *that* France had a long while aim'd at the Univerſal Monarchy, *&c. Why then did not the* whole World *riſe up in Arms to oppoſe it? Where was the Neceſſity that we alone of all the Chriſtian States ſhould firſt take an Alarum at her Deſigns, and break thoſe Tyes of a perpetual friendſhip which we were engag'd in by the late Treaty of Peace to the moſt Chriſtian King? Were we more in danger than thoſe upon the ſame Continent with him, or leſs Powerful to prevent his Deſigns than ſome Princes of* Germany, *whoſe neareſt Concerns was to make Proviſion againſt any poſſibility of ſuch Enterprizes? The* Emperor *indeed had ſome reaſon for making Armaments, and endeavouring to perſwade other Princes to enter into Alliances with Him; He was more immediately related to the late King of* Spain, *was of a Family which had given Soveraigns to that Great Monarchy for ſeveral Years, and thought himſelf highly injur'd by a Will, which if genuine, was made againſt his Intereſt and*

the moſt ſtrict Agreements between the moſt Catholick King and himſelf, if fictitious, was a Violation of the Right of Kings. But we had nothing to do with the Quarrel, we were well aſſur'd we had no Legacies left to us, and no Pretenſions to make on our Parts, we were ſecur'd by our Fleets *which are the Bulwarks of the Nation; and the Parliament had been liberal in building of Ships, and ſupplying His Majeſty to Man the Royal Navy, that tho' it was not our Buſineſs to begin a Rupture, it was in our Power to defend our ſelves, ſecure our Navigation, and Trade, and maintain the Rights of Commerce with all Parts of the* Earth.

They ſaw that the *Milaneſe* was deliver'd up to her; that the ſtrong Holds of the *Spaniſh Netherlands*, which we have a long time reckon'd the Bulwark of *England*, and have ſpent vaſt Treaſure and Blood to keep them out of her Hands, were all in the poſſeſſion of her Troops: And not only ſo, but that the Adminiſtration of all the Affairs of *Spain* were given up to her. Beſides this, they ſaw how great a Breach has been made in the Proteſtant Religion ſince the beginning of the laſt Age: That the Kingdom of *Bohemia*, which was almoſt wholly Proteſtant, is now intirely Popiſh: That in *Poland*, *Auſtria*, and *Moravia*, the Proteſtants who were a Moiety of the People, are utterly deſtroy'd: That their Deſtruction is almoſt compleated in *Hungary*: That the *Newburgers* from zealous Proteſtants, are turn'd deadly Enemies of the Proteſtant Religion: That the *Palatinates* are waſted with Perſecution, and the *Saxons* their Neighbours are ſo far from being able to ſuccour them, that they are in danger from their own Prince: That in *France* where they were powerful enough to carry on ſeveral great Civil Wars; and in *Piedmont* where their Numbers were much greater in proportion

portion to the Countries; and in *Flanders*, *Bavaria*, *Bamburgh*, *Cologn*, *Wartzburgh*, and *Worms*, where they were very numerous, their Religion is totally extinguish'd.

Answ. *The* Milanese *are so far from being possess'd by the* French, *that they will not as much as permit a* French *Garrison in any one Place, and the* Capital *of it has lately given such an Answer by its Senators to* Prince Vaudemont, *that it will rather be at the Expence of raising the* Militia, *than ever it shall. It's true indeed, the Town of* Mantua *has a* French *Governour in it, and the Duke of that Name, is apparently in the Interests of that Kingdom, that the strong Holds in the* Spanish Netherlands, *are Garrison'd by the most Christian King, but his Troops are to withdraw upon his Royal word, as soon as the said Towns shall be put into a Posture of Defence, and the* Spanish *Army compleated and made Capable of preventing any Insults on their Frontiers. As for the Affairs of Religion, things are in the same Condition in* Poland, Austria *and* Moravia, *as they were before His present Majesty King* William's *Accession to the Throne, and since no noise was made on our side in Relation to the Persecution in the Palatinate before the King* Spain's *Death, why should we bring that in as a Reason for War, especially at a Time when it is known that the Elector Palatine has declar'd for his Imperial Majesty's Interest. If he had not forgotten the Disgrace at the Island of* Rhe, *he would never have made mention of the* Protestants in France, *we have often times attempted their Relief to our Cost, and our Enterprizes in Favour of the late* King of Bohemia, *have been attended with such a series of Misfortunes and such pernicious Consequences, that might oblige us to give over our Designs of interfering with other Prince's Affairs, and wholly apply our selves to our own.*

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All this was a very melancholy view; and that which made it more so, was to consider that *France* (which out of regard to her own Interest, the greatest and indeed only Obligation in the World to her, was oblig'd by all means possible to destroy the Northern Heresy, she having made this the Foundation on which she built her Hopes of Universal Monarchy) was now in a new Friendship and Alliance with the fiercest Zealots of the Church of *Rome*; the *Spanish* Clergy, Men whom 'twas her business to gratify, and whom she could not gratify more than by contriving severer Methods to torture and destroy Hereticks.

Answ. *The* Prospect *is Melancholy enough, that's certain, and we ought to commiserate the Sufferings of our fellow Creatures, but did any of the reform'd Church in* Poland, Austria *or* Moravia, *come to our Assistance in the many Dangers our Religion has extricated it self from? Did the* Newburghers *send us any Ships or Forces in the* Spanish *Invasion, or the* Hugenots *in* France *rise up in Arms when their King was Arming against us, and in conjunction with the late King* James, *was advising what Measures to take in order to rob us of our Liberties, and all that was dear to us? The* Spanish *Clergy, 'tis own'd, are great Bigots and Devotees to the See of* Rome, *but the present* French *King is not so dutiful a Son of the Church as to give his Implicit obedience to that Holy Mother, where it is not for his Interests; and since there is no* Inquisition *in* France, *and by his own Words,* French Customs are likely to be Introduc'd into Spain, *in all Probability the* Inquisitor General *will lose his Office, and there will be no such* Court *held in* Philip *the 5th Dominions. Which supposition may already seem to be verify'd in the Inquisitor General's being in Disgrace at the Court of* Madrid, *for his Confederacy with the Emperor's Party, who is known*

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to be the greateſt Bigot to the Romiſh *Superſtition of any Prince in Chriſtendom.*

In ſuch a Juncture as this, 'twas eaſy for a very weak Capacity to ſee what it imported *England* to do in order to ſecure her own and *Europe*'s Liberties, and to prevent the utter extirpation of the Proteſtant Religion both at home and abroad. 'Twas evident that *France*, which had made ſuch Advances already, wanted nothing to make ſure of the Univerſal Monarchy, but only to confirm her ſelf in the Dominions of *Spain*; and as evident it was that every day ſhe continu'd unmoleſted in her new Acquiſitions, her ſtrength muſt grow prodigiouſly, ſo that in a little time it muſt be inſupportable. In that Caſe ſhe had leiſure and opportunity to ſettle her new Dominions, to diſcover the Weakneſſes of their Fortreſſes, as well as Policy, and to repair both; to learn the Temper of the ſeveral Provinces, and to conſider how they might be ſecur'd, and by what Governours; to make the beſt proviſion that was poſſible for defending *Milan*; and (which has been a long time one of the high Reaches of her Ambition) to get into a quiet poſſeſſion of all the ſtrong Holds in *Flanders*.

Anſw. *Weak Capacities generally have the beſt Thoughts of their Abilities, and over-look Difficulties when they would have any Enterprize brought to bear. Any Perſon indeed may ſee things do not go well on his ſide, but it's not in every one's Power to remedy what is amiſs. Conveniencies are to be ſtaid for, and Opportunities expected, to help forward our Deſigns in hand, and we are not to make uſe of open Violence, till ſuch time as fitting Expedients are found out, which may put us almoſt beyond the poſſibility of miſcarrying. Theſe were the prudent Thoughts of thoſe whoſe Wiſdom he upbraids, and tho'* France *has had time to provide againſt us*

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by way of Precaution, can fortifie her Towns and Garriſon, the frontiers which are moſt expos'd to the Inſults of an Enemy; we have an equal Advantage likewiſe of providing our ſelves, and entring into ſuch Negotiations with forreign Princes in the mean while, as ſhall totally ſecure us, and render us a Match for the moſt Chriſtian King, were he never ſo formidable.

Beſides this, there was another ineſtimable Benefit which ſhe reap'd by the Quiet that was indulg'd her. Whilſt thoſe who a long time check'd her growing Greatneſs, patiently endur'd this new Union of Power, what could the other Nations of the World think, but that this unconcernedneſs proceeded either from an inward Satisfaction that *France* had acquir'd ſuch Power, or a deſpair of breaking it, and reſtoring the Ballance again? The natural Conſequence of either Reflection muſt be to reſolve that 'twas their Intereſt to ſubmit, and indeed to make their Court to a Power which was likely to meet with no oppoſition.

Anſw. France *had arm'd her ſelf under the Pretext of making good the* Treaty of Partition, *had Troops almoſt innumerable, ready to take the Field upon the firſt Occaſion, and was in a Condition at the Deceaſe of* K. Charles *the* 2*d of* Spain, *to have done what ſhe pleas'd, in ſpight of all the Force of* Europe, *then in Being: The Motion of the* Germans *is naturally ſlow, and requires Time to be perform'd in; the* Italian *Princes were in general averſe to a War, and had introduc'd too much Luxury into their ſeveral States, to recover their old Martial Temper which they were once Famous for; and the* Dutch *were ſo unprovided in their Frontiers againſt ſuch Potent Neighbours as encompaſs'd 'em on every ſide, that a* Delaration *of War, had been an entire*

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Loſs of the Liberty's of Europe, *which in all probability may be preſerv'd by the prudent meaſures that have lately been taken.* Cunctando reſtituit Rem, *was the Character of a* Roman *General, by a Cautious delay he reſtor'd* Rome *to her former Greatneſs, and made amends for the raſh and precipitate Conduct of thoſe that had almoſt ruin'd her; and who knows but our late Proceedings may deſerve the* ſame Praiſe, *ſince it is not much to be fear'd but they will be attended with the ſame Succeſs.*

'Twas this that made the *Spaniards*, and the People of their Provinces tamely ſuffer one of the Houſe of *Bourbon* which they hated, to take poſſeſſion of their Dominions: 'Twas this made other States enter into Neutralities and Alliances, which they would have refus'd, had not the quiet and peaceable Conduct of others govern'd their Inclinations. Having once fix'd their Reſolutions, 'tis to be fear'd we ſhall find them adhere too obſtinately to what they have ingag'd to *France*, and reſolv'd with themſelves. If honour be not ſufficient to influence them, and keep them ſteddy to the Side they have choſen, even Intereſt may help to do it now; for the Notions of that alter, when Men have new modell'd their Thoughts, and let their Heads run upon other Schemes.

Anſw. *The Treaty of Partition in all Appearance, not our unprovided State, made the* Spaniards *take ſuch Meaſures as they did, and occaſion'd the WILL in favour of the Houſe of* Bourbon, *and our adhering to too precipitate Counſels, broke off that Confidence which was mutually entertain'd between the two Nations. What was therefore the Fault of the* Miniſtry, *ought not to be imputed to the Parliament; who to their laſting Honour*

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have Impeach'd the Projectors of that ignominous Treaty as ENEMIES TO THE PUBLICK GOOD, and great Contributors towards the Exorbitant Greatneſs of France. *They gave away thoſe Kingdoms which theſe would keep in their due Obedience to* Spain, *and parcell'd our Large Tracts of Land to the Family of* Bourbon, *when it's as certain as truth it ſelf from the Publick Votes, that theſe have Addreſs'd His Majeſty to enter into a ſtrict Alliance with the Houſe of* Auſtria, *and other Confederate States in order to oppoſe the Poſſeſſion of what they ſo eaſily made a Grant of.*

In that great Juncture, when the Seaſon was for making the earlieſt and beſt proviſion for ſecuring the Liberties of *Europe*, the Eyes of the World were all fix'd upon *England*. 'Twas ſhe who had always kept the Ballance; and ſhe only having it now in her power to determine whether it ſhould be preſerv'd or no, other Nations were to obſerve her Motions, and take their Meaſures from her. None could doubt but that if ſhe had enter'd betimes into a firm League with the *Emperor* and *Holland*, 'twould have preſently produced a Confederacy ſtrong enough to humble *France*, which was graſping at things much beyond the reach of her Power, in that feeble and weak Condition ſhe was reduc'd to by a long War and evil Conduct.

Anſw. *At the Death of the King of* Spain, *the Eyes of the World were fix'd upon* England, *in order to know how they would reliſh ſuch a Diſpoſition that was made againſt the Intereſt of her Antient Confederates. But the Conſtitution of this Kingdom would not allow of ſuch Meaſures as the Pamphleteer would have us take at the*

the very receipt of the News. His Majesty indeed might have declar'd a War as it was part of the Royal Prerogative, but he could not carry it on successfully without the Consent of his People, the Sinews of it were wanting, Funds already given for the Service of the Publick Deficient, *and the Nation nigh* Twenty Millions *in Debt. When the Parliament sat, they acted so cordially for the Preservation of the Peace at the same time as they were employed in finding out Ways and Means to begin a War, that whoever will take the pains to examine their Proceedings, must needs conclude they have done as much for the People of* England *as ever their Representatives did, and have studied the welfare of our Antient Allies, as heartily as ever Men did.*

'Twas therefore undoubtedly the Business of *English* Ministers to advise the calling of a Parliament immediately upon the news of the *Spaniard*'s Death, and of the Parliament to address the King to make *Alliances.* Had this been done *Portugal* would have thought it her interest rather to enter into Alliances with them, than make her self a Party in establishing the Throne of the Duke of *Anjou*, who when he is establish'd and made one with *France*, will certainly set up his Title to *Portugal* The Duke of *Savoy* then would have consider'd that it was by means of the *Equilibrium* between the House of *Austria* and *France* that his Ancestors preserv'd their Dominions; he would have consider'd likewise whether 'twas worth his while to make his Sons Beggars, or Soldiers of Fortune, for the sake of aggrandizing his Daughter. This will be the Acquisition of his Battles if they be successful; for when the *Milanese*, and both the *Sicilys* are in the hands of France, his Dominions will be necessary to her for Communication.

Anſw. *What was the Effect of* Evil and Corrupt Miniſters Advice, *ought not to be imputed to the Conduct of thoſe that have arraign'd 'em for want of a due Forecaſt, or (what is worſe) a ſtock of Honeſty, but ſhould be laid at the doors of the Contrivers. However the Parliament might have been call'd together before the* Middle of February, *and yet the King of* Portugal *would not have reſiſted the Offers of* France *which were ſo much to his Advantage, and bound* Spain *to relinquiſh her Right and Title for Ever to the* Luſitanian *Provinces; The Duke of* Savoy *likewiſe was too nearly related to the* French *by the Marriage of one of his Daughters to the Duke of* Burgundy, *and more entirely devoted to his Intereſt by the Promiſe he made that the other ſhould be Queen of* Spain, *and tho' the* Equilibrium *between the two Powerful Houſes of* Auſtria *and* Bourbon *made his* Anceſtors preſerve their Dominions, *the Advantagious Propoſals made to him on the Parts of* Lewis *the* 14*th, and* Philip *the* 5*th, made him certain of adding freſh Titles to his Family, and being the moſt conſiderable Prince in all* Italy.

The Pope then probably would have reflected on the Affair of the *Corſi*, the Extention of the *Regale*, the four Propoſitions that were advanc'd at *Paris*, and all the enormous Attempts againſt the Dignity of the Head of the Church in the Perſon of Pope *Innocent* XI. and would perhaps have declar'd for the Emperor, had he had ſuch encouragement to do it. Nor is it improbable that the Republick of *Venice* would do the ſame, ſhe could hardly avoid conſidering betimes, that the Neighbourhood of *France* prov'd ſo fatal to her in the ſmall number of Years that *Lewis* XII. enjoy'd *Milan*, that he reduc'd her to greater Extremities than any other War, even that of the *Turks*, ever did. A Conſideration ſo powerful with that wiſe Republick, that tho' the vaſt

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Power of the Houſe of *Auſtria* under the Emperor *Charles* V. might have given her juſt grounds of jealouſy, ſhe would never lend her Ear to any Propoſition of *Francis* I. Succeſſor to *Lewis* XII.

Anſw. *The* Pope *would ſcarce have turn'd* Proteſtant, *and joyn'd with* England *and* Holland, *from the Specimen he has already given of the bent of his Inclinations for the* Propagation *of the* Romiſh *Faith, and the valuable Preſents he has made towards the Support of the late King, as well as Promiſes of contributing what lies in his Power towards His Reſtoration. The Buſineſs of the* Regale *cannot well be digeſted by one of his Cholerick Temper, and the* Four propoſitions, *doubtleſs, ſtick in the holy Pontiff's Stomach; however he has been hitherto ſo far from ſhewing his Reſentments, that he has in a manner own'd the New King of* Spain, *by permitting Him the* Nomination to vacant Biſhopricks and Abbys; *and the Republick of* Venice *ſeem inclinable to the* French *Intereſt, in adhering to a ſtrict Neutrality, even at a Time when the* German Forces *are ſo powerful and triumphant in the very Heart of* Italy, *as to Countenance their pulling off the Maſk, if they had any Intentions to befriend 'em.*

Had things been upon a right foot in *England*, 'tis very probable that the Duke of *Bavaria*, and his Brother the Arch-biſhop of *Cologn*, would have remembred the Obligations laid upon them, at leaſt their own Intereſt; and that the former would have taken Meaſures which would make the War much eaſier than 'twill be. In that Caſe the People of *Spain*, and their Provinces, would, if they did no more, keep up their old Reſentments againſt *France*, which in a convenient Seaſon would render them very uſeful to the Confederates.

Anſw. *When Princes have Ingratitude in their very Natures, it muſt ſhew it ſelf at the firſt Opportunity. The Duke of* Bavaria *owes his Government of the* Netherlands *to K.* William's *Intereſt with the late King of* Spain, *and his Brother the Electorate of* Cologn *and Principality of* Liege, *to his Wiſe Negotiations: But neither the Obligations which were laid upon the One, in the Proviſion for the Succeſſion of his Son, the Electoral Prince to the whole* Spaniſh *Dominions, nor the Friendſhip which was ſhewn to the Other carry'd that Weight with 'em as they deſerv'd. The latter of theſe two Prince's Territories lie ſo much expos'd to* France *and* Spain, *and the firſt has ſo many Millions due from his late Catholick Majeſty for his Salary, and what he has laid out in defence of the* Spaniſh Netherlands, *that he muſt run the riſque of every* Florin *the* French *King ſtands engag'd for the Payment of, ſhould he take other Meaſures: Since the Emperor is not in a Capacity to reimburſe it to Him, and His Majeſty is ſo uncertain of puſhing on his Conqueſts over all* Spain, *that 'tis to be doubted whether he can get ſo much as footing in the Dukedom of* Milan.

The *Germans* would conſider what danger they were in of having a Prince, grown ſo great by the Acceſſion of the *Spaniſh* Dominions, carry his Arms into *Germany*, where he has great footing already, and challenge all the States that compoſe that great Nation as part of the Succeſſion of *Charlemaign*, of which he and other Kings of *France* have already declar'd themſelves Heirs. In this Caſe ſome (as the Chapter of *Cologn* ſeems very lately to have done) would conſider that in an Hereditary Empire, there would be no more Colleges, nor Diets, nor Chapters: Others, that 'tis a vain thing to diſpute about Prerogatives, and to make *France* judge of the Diſpute, whoſe Arbitration muſt

muſt turn to the Ruin of the Empire. And the reſult of theſe Reflections would be to enter into Meaſures agreeable to them.

Anſw. *The* Germans *would ſtill have been the ſame* ſlow *Creatures, as they are at this Juncture, and would not have brought their Troops into the* Field *before it was time to ſhut up the Campaign, and march back again into Winter Quarters. Their ſwiftneſs in proſecuting Affairs, and ſtanding up for the Intereſt of the* Empire, *may be ſeen from the haſt they have lately made to aſſemble together for one anothers mutual Defence, and their ſuffering the* French *to have an Army that Conſiſts of more than fifty Thouſand effective Men, when they have not ſo much as five Thouſand* drawn *together to oppoſe their Deſigns.*

Theſe probably had been the Reſolutions of thoſe Foreign States, at leaſt of ſome of them, had not the management of *England* diſcourag'd them to that degree, that they muſt arraign themſelves of raſhneſs and folly, if they had taken thoſe Meaſures which they themſelves knew were moſt for their Intereſt.

Anſw. *The* Management of England *has been ſuch, that the States of* Europe *that are Afraid of a* French *Yoke, muſt needs be encourag'd to contribute what lies in their Power towards the Advancement of the Publick ſafety from it. The King declares from his own Royal Mouth, that nothing can more effectually* conduce to our Security, *than the* Unanimity *and* Vigour *which the Commons have ſhew'd in this laſt Seſſion. But this Author contradicts his own Soveraign, and aſſirms that is is too late, and would make the World believe that they have been negligent of our Security, and that of our Proteſtant Neighbours? Whom we ought to give credit to, Manners will direct us, and His Majeſty's words without doubt have more weight with the thinking Part of the Nations, than the Expreſſions*

of

of a Party that never acted any thing yet that was Conſiderate.

Things being in this ſtate, 'tis very plain that the Gentlemen of *Kent* had a great deal of reaſon to pray the H--ſe of Com--ns to have a Regard *to the Voice of the People, that our Religion and Safety might be effectually provided for*, and that His Majeſty by *Supplys* might be *enabled to aſſiſt his Allies.* The *Voice of the People* was then every where loud for War, there was ſcarce any ſo weak as that they could not ſee that no Proviſion could be made for our *Religion* or *Safety* without it. 'Twas manifeſt that *France*, after ſhe had been a while ſettled in her new Dominions, would be able to overcome *Holland* whenever ſhe pleas'd. *Holland* being overun, 'twas eaſy to ſee that *England* being ſpoil'd of her Trade by that Revolution, and the Union of the two great Kingdoms, muſt ſoon follow her Fate.

Anſw. *But ſuppoſe things are in a quite different State (as certainly they are) and bear another ſort of Face than what he puts upon 'em.* The Voice of the People *will ſoon drown the* Voice of a few *Kentiſh* Men, *and ſend forth other Clamours than what are made uſe of to call for freſh Deſolations, and ſupplicate for an Addition to thoſe Misfortunes which are but too preſſing upon us already. Poverty diſplays it ſelf to a great degree in all our Borders, and the Tears of Widows for their ſlaughter'd Husbands, and Children for their deceas'd Fathers are not yet dry'd up. Should we therefore be fond of having a new ſtream burſt forth from our Fellow Subjects Eyes, or laviſhly call for a new ſtock of Miſeries by petitioning for a War to introduce 'em? Should we ſeek for the ſame Cauſes which have occaſion'd theſe deplorable Effects?*

The *French* Party indeed told us, and (which among other things occaſioned ſome Reflections) the *H--ſe of Com--ns* ſeem'd to ſome to be o

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their Opinion, that our Security might be ſufficiently provided for by a good Fleet. 'Twas a very fond Opinion to imagine that we, who in conjunction with *Holland*, were the laſt War inſulted upon our own Coaſts by the Fleet of *France*; and another time had probably been ruin'd by them, had not the Heavens been favourabe to us, ſhould be able, after the loſs both of our Trade, and the Aſſiſtance of the *Dutch*, to maintain a Fleet big enough to ſecure us from a Power ſo exorbitant as that of *France* would then be. A *Powerful Fleet* are words that ſound plauſibly in the Mouths of thoſe People, who are for having our Arms to be as little grievous as may be to *France*, and they ſerve to amuſe and impoſe upon weak People; but Men of underſtanding muſt allow this to be a very uncertain Security.

Anſw. *We were never worſted in our Fleet joyn'd with that of the* Dutch, *by the* French; *and what he calls inſulting us upon our own Coaſts, was after the Engagement of forty two* Engliſh *and* Dutch *Ships with all the Naval Strength that belong'd to* France. *That miſcarriage laid at ſome Great Mens Doors, who were then Commiſſioners of the Admiralty, not in the Fleets of either* England *and* Holland, *and 'tis Apparent by the little uſe the Monſieur* Tourvill *made of that Engagement, that he had other thoughts of our Strength, and the Conduct which has been ſhewn by* Lewis *the* 14*th's Admirals ſince, is a Token enough of their diſtruſt of their own Power, rather than a Confidence they have of its being Superiour to Ours, and we are capable at this Time without the Aſſiſtance of the* Dutch *to Equip two Hundred Sail of Veſſels of War to Sea, in order to our further ſecurity, which is wholy owing to the Conduct of our Parliaments that have rais'd ſuch vaſt Sums of Money to build 'em for the Preſervation of theſe Kingdoms.*

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This was the only Proviſion for our Safety, which the Parliament for a long time ſeem'd inclin'd to allow us. Whatever matter was offer'd that ſeem'd to have the leaſt tendency to a War, was violently oppos'd by the *Sp--er*, *Mu--ve*, *Sey--r*, *Sho--r*, *Fi--ch*, *H--w*, *Ha--rt*, and all thoſe who were entirely in the Intereſt of that Party. This Averſion they plainly diſcover'd in the beginning of the Seſſion, when on the 14*th* of *February*, immediately after the King had made his Speech, they came to the Reſolution, *To ſtand by and ſupport His Majeſty's Government, and take ſuch effectual Meaſures as may beſt conduce to the Intereſt and Safety of* England, *the preſervation of the Proteſtant Religion, AND THE PEACE OF EUROPE.* We cannot but remember what Debates aroſe upon this laſt Clauſe, and with what Difficulty 'twas carried by 181 againſt 163, and that the Reaſon why 'twas oppos'd was, becauſe 'twas plainly declaring for a War. Here it was that the Prejudices began againſt that Party in the H--ſe, and this laid the Foundation for the great ſuſpicions that follow'd afterwards.

Anſw. *The moſt weighty Conſiderations induc'd thoſe Gentlemen to think, that in ſo great and important an Affair, as the Buſineſs of War, they could not act with too much Caution: They conſider'd 'twas an eaſy thing to have recourſe to Arms, but the difficulty was to obtain ſuch a* Peace *by the uſe of 'em, as to enable 'em to lay 'em down with Honour and Advantage to the* Engliſh *Nation. They could not but take notice of the forwardneſs of thoſe Gentlemen to enter into a new War, who had got moſt by the management of the Laſt, and took it as a great diſcouragement to Honeſt Country Gentlemen to ſee the Nation ſo much in Debt, and the Chief Managers of Publick Affairs ſo vaſtly Rich. And therefore ſince the Circumſtances of the King-*

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dom were ſuch, that they were not able to do in this *as in the* laſt *War, ſince the Emperor was the Principal Party concern'd, and the* Dutch *in more immediate danger, the Commons thought it very reaſonable, that thoſe two Powers which were chiefly aggriev'd ſhould make the firſt advance towards it, and in Caſe an Honourable Peace could not be attain'd, the Empire and* Holland *ſhould apply themſelves to* England, *and not* England *to them. That is, they were not againſt bearing the greateſt Burthen of it, as they did in the* Laſt. *For had they declar'd at the beginning of the Seſſion what they did at the latter End of it,* Holland *had been over-run, the* Dutch *ſurpriz'd, all the* Engliſh *and* Dutch *Merchants Effects ſeiz'd abroad, and* England *it ſelf almoſt in Danger of an Invaſion.*

'Twas amazing to all thoſe who could diſcover no poſſible means to preſerve us, but by a vigorous War, to ſee ſuch a great number of the Repreſentatives of the Freemen of *England*, labouring for that which of all things in the World *France* moſt deſir'd, and would give any Money for. Nor was this the Voice of that Party in the H--ſe alone, but all without Doors who were of their Faction, and all who had any byaſs to *France*, or St. *Germain* Family, were every where induſtrious and noiſy in decrying a War, and ſetting forth the inconveniences of it. But that which gave the melancholieſt Reflection of all, was to find that thoſe who were thought to have the ſole Direction of publick Affairs, were in the ſame ſentiments. They ſpoke their Minds freely upon that Subject, as we have been told, ſo did their Friends; and the ſaying of one Gentleman in great Station, to C--t *Vra--au* the Em---r's Min--er, ought to be remember'd.

Anſw. *So* amazing *as it was, the moſt conſiderate Part of the Houſe of Commons, as well as thoſe that had any Stock of* Intellectuals *in the*

Nation were for taking ſuch meaſures as to preſerve the Peace of Europe *without entring into a War, and keeping the Ballance in its due Poize, without making uſe of ſuch Means as certainly would incline it to the* French *Intereſt. The moſt Chriſtian King had not ſuch a Diſtruſt of His own Strength, nor ſuch an ill Opinion of above Two hundred thouſand compleat Troops, and as well regulated as any in Chriſtendom, that he ſtood in fear of any Inſults whatſoever, but was willing to ſee his Grandſon not mount His Throne from Heaps of ſlaughter'd Carcaſſes, or ſwim to the Poſſeſſion of Both* Indies *thro' a Sea of Blood; and tho' 'tis well known He might have acted on the offenſive Part, and been very Troubleſome to ſome Neighbours, He made it His Choice to wait the Motions of thoſe he had Reaſons to call Enemies, and ſtood prepar'd only to reſiſt Force by Force, ſhould any be ſo hardy as to attack him. Since therefore he was Powerful and ſtrongly provided with ſuch numerous Armies, thoſe cannot be thought to be Friends to* France, *that took time to put themſelves likewiſe in a Poſture of Defence, that endeavour'd to oppoſe His Deſigns without a Declaration of War, and made Armaments by Sea and Land, in hopes that the report of their Strength might induce him to ſtand by the Peace, in ſurrendring up ſuch Cautionary Places to* England *and* Holland, *as ſhould be agreed on by the Parties concern'd.*

What their Senſe was, the Author of the three *Eſſays* told us before the Parliament ſat; the manner of his expreſſing it ſpeaks it to be publiſh'd with their Allowance, and thoſe who know his Converſation with them, were perſuaded it was. "If any among us (*ſays he*) "ſeem at preſent willing to embrace peaceful "Councils, and to decline entering upon im-"mediate Action; 'tis not that they doubt "themſelves, or dread the adverſe Strength, or

"that

" that their antient Enmity to *France* is buried in " Oblivion. --They are not ſo apprehenſive of " Coping with any foreign Strength, as they are " fearful they ſhall be compell'd to enter into " freſh Conflicts with the Enemies of *ENG-* " *LAND*, whom they had almoſt ſubdu'd, *&c.* " Their Ears can never endure the Cries of the " Poor, for want of Work, *&c.* 'Tis a monſtrous *Tenderneſs and Compaſſion*, which can endure rather to ſee Popery and Slavery diſplay their Banners in this Land, than to behold the Calamities which a new War muſt bring upon their Country. If he can ſee how they can be kept out without a War, he ſees things in quite another Light than what any honeſt Engliſhman does.

Anſw. *A Gentleman in a great Station who muſt needs be a Privy Councillor at leaſt, would ſcarce drop any word that ſhould let Count* Ulratiſlaw *know that the Bent of the Court was not for a War, and if the Author would reflect with himſelf who got Money the laſt War, and heap'd up conſiderable Treaſures, who manag'd the* Funds *that were given for the Publick Security, for their own Private Intereſt, and occaſion'd ſuch a Deficiency in 'em, as is now but too viſible; he would ſcarce bring them in for Sticklers againſt it. Beſides, His Majeſty their Maſter's* Martial *Genius, His averſion to the* French Intereſt, *and his deſire to bring down her growing Greatneſs, are ſuch convincing Arguments for thoſe that are in Places under him to be of the ſame Sentiments, not to enter into Diſcourſe with the Emperor's Miniſter that ſhould be ſo unpleaſant to him, and which he could not but expect would come to the King his Maſter's Ear, who had eſpous'd the* Auſtrian Family's *Intereſt. As for Dr.* Davenant's *Book, the Arguments of it are of ſuch weight with all thinking People, and the Reaſons for a Peace ſo poignant and ſtrong, that if the Houſe*

did actually allow he ſpoke their Senſe, *they muſt needs acknowledge he has done 'em all imaginable Juſtice in expreſſing it.*

One would think he thought but ſlightly of a War, when he tells us, that one of the greateſt things to be dreaded in it is, that 'twill bring thoſe Men into play again, who never gave us the leaſt ſuſpicion of their being in any other Intereſt than that of their Country. 'Tis very eaſy to perceive what his Deſigns are, both in running down thoſe Men, and labouring to give us a diſmal Idea of a War: But he and his Friends tell us, that his Book ſhews him to be plainly for a War. 'Twas cunning in him to ſay ſomething, for fear of falling under the rage of an injured Nation; and 'twas Policy to grant him a Diſpenſation to do it, leſt by being too plain in handling an odious Subject, he might put it out of his Power to do any Service for the future. He ſeems ſometimes to write for a War, but (which ſhew'd his Inclination) voted againſt it amongſt the 161: he ought indeed, he ſaid, to do otherwiſe, but *Ja--k H--w* ſmil'd ſo pleaſantly upon him, that he could not divide againſt him.

Anſw. *If 'tis the* Intereſt of the People of England *to have the Publick Treaſures exhauſted, and thoſe entruſted with the care of it that were of ſlender* Fortunes, *and conſequently would endeavour to raiſe themſelves by the fingering it*; *if they* acted for their Countries good *that poſtpon'd every other Conſideration to their own enrichment, and like a certain Pay-maſter, that* tells the Publick Money over a Grid-Iron, and challenge's all for his own that fall's thro' it, *got incredible Eſtates from very ſmall Beginnings, then the Dr. is infallibly in the Wrong. But, if it be not fitting that thoſe who have been guilty of ſuch Male-Adminiſtration, ſhould be brought into the Miniſtry again, if the*

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Idea of the War is diſmal *enough of its own nature, more eſpecially when that Nutriment that ſhould feed it, and thoſe Funds that are the Sinews of it, are made over to other Purpoſes, where are* the Eſſays upon the Ballance of Power *to be found fault with, that State the Caſe as it really is, and give us ſo clear an inſight into the Miſcarriages that are likely to attend too precipitate Conſultations? He lays down the Reaſons both for and againſt a War ſo clearly, and handles it with that ſincerity of Judgment, that he leaves the Reader wholy to determine which is moſt adviſeable in our preſent Condition, and a Gentleman of his known Integrity and Senſe, that has refus'd ſeveral Offers to engage with another* Party, *in any underſtanding Man's Opinion cannot be thought to be prevail'd on by a* Smile, *eſpecially when Mr.* How's *Reaſons are well known to be more Cogent than his Looks.*

When he ſpeaks for a War, 'tis very coldly, and in other Places he takes care to deſtroy the Force of what he ſaid; in one place he tells us "That we reap little from a War but "the Perils and Loſſes with which it is like to be "attended. This is but a ſmall Encouragement to it. In another he is afraid "ſuch a "Debt will be at laſt Contracted, *and moſt of "it abroad*, as in time muſt impoveriſh and ſink *England*. What then muſt we do? Why, "all "Engliſhmen ought ſeriouſly to conſider this "Reflection which *MACCHIAVEL* makes, "That when a Prince, or Commonwealth, ar"rives at that height of Reputation, that no "Neighbour, Prince, or People, dares venture "to invade him (unleſs compell'd by indiſpenſable Neceſſity) he may do what he pleaſes. "In all probability, *ſays he*, The *French* are "now arriv'd to this formidable pitch of Greatneſs, unleſs the *Spaniards* ſhew more Courage "than has appear'd in any Meaſures they have "taken theſe laſt hundred Years. Anſ.

Answ. *A Person that writes impartially, must as well shew the Difficulty of an Enterprize, and point out the Misfortunes that may casually attend it, as buoy up his Reader's Imagination with the hope of Success*; *and if the Dr. tells us* we can Reap little by a War, *&c. it's no more than what is visible to any Man of Sense, since we have no Pretensions on our own Parts, either upon* France *and* Spain, *and whatever Articles are concluded on between the Emperor*, France, *and* Holland, *as the Result of a War, it is to be feared, neither* Ostend *or* Newport *will fall into our Hands, any more than the Rich Town of* Carthagena, *since we have much the same Right and Title to the Mines of* Peru *and* Mexico, *as we have to any individual strong Hold in* Flanders. *As for the* French *Greatness, I presume, he can say nothing to detract from it, and I must agree with the Dr. that unless the* Spaniards *revive that Courage which has been in so long a state of Declension, that their Antient Monarchy's Grandeur will be forgotten and swallowed up in the Glory of that which has now furnish'd it with a Prince, that cannot make it Greater than the Kingdom he drew his first Breath in.*

If this be so, that the Power of the *French* is grown too great to be resisted, and we have no hopes but from the *Spaniards* taking good Measures, we are in a very miserable Condition. But hold, he shews us some hopes yet, " If they can so prevail, as to " make their young Prince become a good " *Spaniard*; if they can divide him from *French* " Councils, --- if the quiet Reception he is like " to find make *French* Councils, and *French* Sup- " ports no longer necessary to him, those fears " will be somewhat allay'd, which we now la- " bour under. But are there any hopes that 'twill be so? Yes sure, very great; " He gives " us promising Hopes of his Person, and that " marti

" martial young Prince, if he be endow'd with " any ſhare of his Grandfather's Conduct and " Wiſdom, may put *Spain* into a better Condition " than it has lately been, to oppoſe *France* in " any Attempts it may hereafter make upon " the Liberties of *Europe*.

Answ. *Either the* Spaniards *muſt take meaſures diſagreeable to the* French *Intereſt, or the Emperor's Army in* Italy *is not likely to make very Succeſsful Campaigns, or keep Garriſon in the Caſtle of* Milan; *and if they can't prevail with their young Prince to become* a Good Spaniard, *'tis very probable he will be accounted an* Excellent Frenchman. *It is our Buſineſs therefore undoubtedly, not to fall out with him, but ſince we have Recogniz'd his Acceſſion to the Throne, to live in Amity and a good Underſtanding with him, that he may not be forc'd to put his whole Dominions under the Protection of* France, *and ſurrender up the Netherlands to his Grandfather and his Heirs for ever by a* Treaty of Partition, *which would be very diſagreeable to* England *and* Holland, *in order to preſerve the reſt of that vaſt Monarchy to himſelf.*

O wonderful Contrivance to ſerve his Maſters and perſuade *England* to lay aſide all thoughts of War! Could he expect to do it by ſuch little ſetches as theſe, to ſcare a great and warlike People with his paltry repreſentations of the Power of *France*? Or to lull a wiſe Nation aſleep with ſuch a ſilly proſpect of Security? Yet this is one of the great Machins which C---t *Tal---rd* the chief *Fr---ch* Engineer in *England* has made uſe of, not only to bomb great Miniſters, and every thing he has a mind to reduce to Aſhes, but to batter down all the ſtrong Holds and Fortreſſes of our Religion and Liberties. This is he that

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is careſs'd by great Men of our own Court; this is he that is employ'd to *teach young Gentlemen the Buſineſs of the Nation*; who is to tell them in print a little before the Seſſion begins, what they are to do the next Seſſion. If this be our Condition, that the weighty Affairs of the Kingdom muſt be manag'd by Senators, who are to learn their Wiſdom from ſuch a Wretch as this, in Charity we ought to pray for them, in the Language of our Saviour, *Forgive them, for they know not what they do*; but for our ſelves, in thoſe which we write over the Doors of Peſt-houſes, *Lord have Mercy upon us.*

Anſw. *Now the Man of Argument is fallen into a downright Rapture, and is troubled with an Oratorical fit by way of Exclamation! The Dr. ſaid,* the young King of *Spain* gives us promiſing hopes of his Perſon, *&c. and may learn from his Grandfather's Politicks how to Oppoſe* France *in any Attempts on the Liberties of* Europe. *Where is the harm in theſe Expreſſions, thou great Lover of Interjections; that art mov'd by ſuch a ſudden Paſſion of the Mind? Does an Ambitious King mind the Ties of Blood, or Obligations of Kindred? Will a Prince that rules over a Jealous turbulent, and Proud People as the* Spaniard*s are, ſo far endanger the Loſs of his Crown, as to act contrary to the Sentiments of his Subjects. Have not they been bred up in an Averſion to the* French *Nation, and almoſt ſworn at the Altars in their very Infancy as* Hannibal *againſt* Rome, *to maintain a perpetual Enmity with 'em. Are not they at this time uneaſy at the Conduct of the Regency that have permitted ſo many* French *Gentlemen to attend their King, and will they ever ſhake off*

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their Reſentments for ſome indignities lately offer'd by them to the Natives? 'Tis impoſſible they muſt loſe their very Natures before they can part with their Hatred; and if the Dr. is Careſs'd by great Men of the Court, its certainly a ſign that he cannot be in the Intereſt of France, *or King* Will. *muſt have a very Treacherous Miniſtry.*

If he, who in times of the greateſt Danger, when it moſt nearly concern'd *Fr--ce* to try the power of her Gold here in *England*, has been highly courted by her *Tal---rd*, and given very great demonſtrations of his Zeal to gratify the Ambition of that Kingdom, can make himſelf and Intereſt, not only to be protected in his Inſolencies, but to be courted likewiſe by a Party, and beſides all this, to have the Honour confer'd upon him, of being made the Leader of the Blind; 'tis eaſy to ſee what in a ſhort time muſt be our Doom: that between the Management and Conduct of Men of too much Intreague, and too little Underſtanding, we muſt fall under the Dominion of *French* Tyranny and Popery.

Anſw. *An Ingenious Man will be* careſs'd *by Men of all Perſuaſions. and Count* Tallard *was ſuch a Judge of Converſation, that he could not miſs him amongſt the reſt of thoſe* Polite Gentlemen *he made his Court to*; *and if to* diſcourſe *with a* French *Miniſter, or ſit at* Table *with him, is a Token of being* Brib'd *by him, we have ſeveral* Noble Peers, *and amongſt them great Officers of State that have ſpent an Evening with his late Excellency, and have certainly been Partakers of his Largeſſes.. But without doubt our preſent Miniſtry is of another ſtamp, and the Gentlemen in it are too well ſatisfy'd with their* Places *of Honour and Profit, to contribute any thing towards the ſupport of an Intereſt that is contrary to theirs*; *and the Dr. is Remarkable for ſuch a Love to the welfare of his Country, and ſuch an earneſt deſire for its Proſperity, that he is ready to forego any mercenary Advantage whatever, and prefer*

its Consideration to all things that are accounted valuable.

This the *Kentish* Gentlemen thought they had Reason to fear, would be the Effect of the Measures taken by our Parliament, before they offer'd their Petition. To descend to the particulars of their Proceedings, which brought them under the so universal Censure and Displeasure of the People, would be too invidious an Undertaking, and raise this little Discourse to a much greater bulk than I design'd. My Intention is only to shew, that the Gentlemen had Reasons to offer their Petition at that time. If one or two good ones are sufficient to justify them, and they may be taken notice of without any great Offence, I must desire my Reader to rest satisfied with my mentioning them. Matters that are nicer and not so well bear touching, I leave to be handled by Men of more Penetration, whose Fears (I will not say Concern) for the Publick are greater perhaps than mine are.

Answ. *Popery and Slavery have been at too great a distance from* Kent, *or any other Part of the Kingdom for these twelve Years last past, to make the subject apprehensive of any ill Effects from it: And his Reasons must be better than any he has given yet to persuade us to believe that his five WORTHIES fears had any grounds for 'em, at least such as deserve to be handled by an* Abler Pen *than his own, that has such a mighty concern for the security of the Publick.*

If those Petitioners were really persuaded that *Fr---ch* Gold had any influence in the management of Publick Affairs, 'twas a sufficient Reason for them to endeavour by such a Petition, either to make the *Ho--se* of *Com--* take other Measures, or to dispose the other parts of the Kingdom to follow their Example. That they were of this Persuasion, we have very good Reasons to believe. We know what one of the five Gentlemen

en ſaid in a very publick Place, ſome Weeks fore the Petition was offer'd, to Sir *Fr---cis ---ld*, a Member of Parliament, concerning the Inclination of the *Ho--ſe* of *Com--ns* to ſerve the *Fr---ch* K---g. 'Tis not probable that that Gentleman would have been ſo bold to ſpeak openly, to a Member who was entirely in the Intereſt of that Party which he ſuſpected, words which the other call'd *Seditious*, if he had not reckon'd it a Service he ow'd his Country, in a very great and dangerous Criſis.

Anſw. *A Man cannot be really perſuaded of the truth of a Matter, unleſs he ſatisfies himſelf from* Ocular Demonſtration, *or other indubitable Proofs; therefore the* Kentiſh *Petitioners muſt either actually have ſeen Count* Tallard *diſtributing his* French *Gold, or receiv'd the Truth of it from unqueſtionable Authority, or according to their Advocate's own Argument which is a convertible Propoſition, their Petition muſt be groundleſs; and 'tis not be ſuppos'd but any one of that Company which had Forehead enough to behave themſelves ſo Irreverently to the whole Body of Parliament, would not ſtick to affront Sir* Francis Child *who was only a ſingle Member of the Houſe.*

About the time they petition'd, this ſuſpicion was grown ſo univerſal, that what a Gentleman told Sir *Ed---rd Sey---r* in *Hampſhire*, near the time the Parliament roſe, that *we were bought and ſold*, was the Voice of the People every where. This Jealouſy muſt run very high, and there muſt ſure be very good grounds for it, when a very great Lord could ſay, in a very Auguſt Aſſembly, juſt two days after that Petition was deliver'd, that ſome things that were done, ſhew'd that there was *Fr---ch* Money in the Caſe.

Anſw. *Without doubt Sir* Edward Seymour *return'd a ſuitable Anſwer to the* Hampſhire *Gentleman, and was not wanting in his vindication of that Houſe he had the Honour to be a Member of*: and *what* a Great Lord ſaid in *a very Auguſt Aſſembly*

was ſpoken in relation to other Peoples being ſuſpect of Bribery not the Houſe of Commons whoſe Honour he has the higheſt Deference for.

But this was not all. Thoſe Gentlemen ſaw as I obſerv'd before, that not only all the leading Men of that Party, which bore ſway in the *Ho---ſe* of *Com---ns*, but ſome leading Men in the Nation likewiſe, us'd all poſſible endeavours to drive People from the thoughts of War. This thoſe Gentlemen, and the bulk of the People thought the greateſt Service that could be done to *Fr---ce*, and that the certain conſequence of that would be, that in a little time we muſt be content with what Religion, what Liberty, and what Trade *Fr---ce* would be pleas'd to allow us. This being their ſenſe of things, 'twas a ſufficient Reaſon for them to do what they did.

Anſw. *He has already prov'd the* Kentiſh *Gentlemen's ſight was not good, becauſe they could ſee nothing at all of the Matter, but took it upon Hearſay, and yet he dwells upon the Commendation of the clearneſs of their Forecaſt, and brings in the* Bulk of the People, *that is the whole to Juſtify what was done at a* Goal delivery, *and vindicate what neither the Bench of Juſtices could add a ſanction to by their ſubſcriptions, or the Weſtacres their Impertinent Deputys by their Imprudent behaviour at the Bar of the Houſe of Commons.*

What a happy Nation ſhould we be, if others would imitate them in their Zeal, and virtuous Concern for the Publick! Now is the time for *Engliſhmen* to ſhew themſelves. Things are brought to the higheſt Criſis that ever was ſeen in *Europe*. *Fr---ce* plainly deſigns the Univerſal Monarchy: 'Tis War only that can determine, whether ſhe ſhall have it or no, If ſhe prevail, our Fate is manifeſt we muſt come under the Dominion of *French* Popery and Tyranny. If ſhe miſcarry, the Miſery and Devaſtation which

ſhe

ſhe will bring into her Kingdom, will be greater than, perhaps, ſhe may be ever able to ſurmount. In this Caſe *England* will not only continue in Poſſeſſion of her Religion and Liberties, but become the greateſt Nation in the Weſtern World. What our Fate ſhall be, depends upon our Management now.

Anſ. *What a ſenſeleſs Nation ſhould we be, ſhould other Countys imitate their follys, and take a Pattern from their unadvis'd Conduct! What an unhappy State would the People of* England *labour under, ſhould they take the ſame Reſolutions to Affront their Superiors, and fall out with thoſe Patriots that have done as much for the Preſervation of theſe Realms, as ever Parliament did or People could expect! Our Alliances are maintain'd, Our Fleets are out at Sea, Payment is taken care of for the Publick Debts, and Parliamentary engagements to the laſting Honour of this Seſſion are once more accounted ſacred. What could be the done on the Part of the* Subject, *or hop'd for to the Aſſiſtance of the* Prince ?

'Tis plain, that without a War we are undone, ſo we may with it, if thoſe who have the Management of Publick Affairs, ſhould happen to be in the Intereſt of the abdicated Family, or common Enemy, or ſhould be under the old Prejudices againſt the *Dutch*, which were in the late Reigns. We know what ſuſpicions we have had, and what grounds there were for them; this makes it abſolutely neceſſary, that the Nation repreſent it ſelf anew. 'Twould be very ſurpriſing to ſee the preſent *Par---nt* ſit again, when a great Party in it has given ſuch Umbrage to the Nation; when they were thought (as far as it was poſſible for them to venture, without plainly diſcovering themſelves, and becoming too notorious) to do all that *Fr---ce* could deſire to have done. If their Conduct throughout the Seſſion was ſuch as made it evident, that their Addreſs to the King, towards the latter end,

was

was only design'd to prevent their Dissolution, or secure their Election if they should be Dissolv'd; 'twould be as strange to see this *Par--t* continue, as 'twill be to see some chosen again, if it should be dissolv'd. 'Tis upon that Election the Fate of *England* depend: if care be taken to chuse Persons, who love our present Protestant Settlement, and have no manner of Byass to *France*, or the Abdicated Family, nothing can prevent the Ruin of *France*, and *England*'s being made a great and flourishing Kingdom.

Answ. *'Twould be very surprising therefore should His Majesty give Ear to some Ill dispos'd Peoples Advice, and dissolve that Parliament that has shewn such Loyalty to his sacred Person, such an Affection for his Confederates, and such a Zeal for the Protestant Interest both at Home and Abroad, that no Session can Parallel. More Money has indeed been rais'd in the late War, but never more in time of Peace when so many Debts were left unpay'd by the precedent Parliaments, and so many Incumbrances on the Publick Faith, so that it is not to be doubted, but the same King that has been supported by 'em should ask Advice of the same Councillors, and that Princes who promis'd to meet 'em again in Parliament next Winter, and gave 'em such instances of his Satisfaction in his Speech at their last Prorogation, will continue the sense he has of their good Services, and have a relyance on their Fidelity so far as to be in a farther condition of returning 'em thanks again for what they shall do for him.*

APPEN-

APPENDIX.

A. A List of such Members of this present H—— of Com——, as refus'd the Voluntary Association in 1695.

SIR *J--es Eth——dge.*
Ld. *H——de.*
J- n M——ſt——n.
H——y Fl——ng.
J——n Tr——m.
F——s Gw——n.
Anth--ny H——nd.
Sir *E——d S——ur.*
J--n Gr——il.
Th——s Str——ys.
Th---s F——ke of Dorſ.
R——d F——nds.
J--n H—w.
R—d H—w.
Th--s Br——ton.
P——r Sh——ly.
Sir *J--n B——lles.*
G——rt D——en.
Sir *R——rt J——ſon.*
H——ry F——nch.
Sir *E---d N——ris.*
Th---s R——ley.
J——mes B——rty.
J--n K——ſton.
Sir *J--n Tr——an.*
H——ry H——mes.
Sir *J--n L——ſon G--re*
Sir *H---ry G——gh.*
J---n L——knor.
W---m Br——ley.
F——s Gr——il.
Sir *Ch---r M——re.*
R---rt B——rty.
W——m H——vey.
H---ry P——nil.
S---l S——ft.
R——t B——ley.
Sir *J---ry J——rys.*
Sir *J--n C——ay.*

B. Names

B. Names of the Perſons Committed by the *H---ſe* of *Com---ns* this Seſſion.

To the Tower.

- *JOHN Parkhurſt*, Eſq;
- *John Paſchal*, Eſq;
- *William Coteſworth*, Eſq;
- *Samuel Shepherd*, Eſq;

To the Gate-houſe.

- Mr. *William Colepeper.*
- Mr. *Thomas Colepeper.*
- Mr. *David Polhill.*
- Mr. *Fuſtinian Champneyes.*
- Mr. *William Hamilton.*

These were taken into Cuſtody of the *Serjeant at Arms*, and after ſent to the *Gate-houſe.*

To Newgate.

- Mr. *Laurence.*
- Mr. *Glover.*

Taken into the Cuſtody of the Serjeant at Arms.

- Mr. *Edward Martyn*,
- Mr. *John Dunmal.*
- Mr. *Clayton.*
- Mr. *Perks.*
- Mr. *Story.*
- Mr. *Jeffreys.*
- Mr. *Bourman.*
- Mr. *Maſon.*
- Mr. *John Newark.*
- Mr. *Marſh.*
- Mr. *Branſby.*
- *Charlwood Lawton*, Eſq;
- Mr. *Alexander Cutting.*
- Mr. *William Adye.*
- Mr. *Edw. Allen.*
- Mr. *Julius Samborne.*
- Mr. *Joſeph Whimbleton.*
- Mr. *Warham.*
- Mr. *John Hayſham.*
- Mr. *William Clifton.*
- Mr. *Edward Whitacre*
- Mr. *John Whitbrough.*
- Mr *James Buckly*, Jun.
- *Charles Maſon*, Eſq;
- Mr. *James Buckly*, Sen.
- *Thomas Terry.*

FINIS.